

# Climate Protection Program: Rulemaking Advisory Committee Meeting 7

July 8, 2021  
9 a.m. - 4:30 p.m.

# RAC #7 Agenda

Time	Topic
9:00 a.m.	Welcome
9:05 a.m.	Meeting ground rules, procedures for public comment
9:10 a.m.	Meeting Overview
9:15 a.m.	Review proposed rule updates for applicability and covered fuel suppliers
9:45 a.m.	Review base cap and emissions trajectory
10:00 a.m.	Break
10:10 a.m.	Review proposed rule updates for community climate investments, covered stationary sources, and other updates
11:00 a.m.	Review proposed enforcement process, <i>DEQ Office of Compliance and Enforcement</i>
12:00 p.m.	Lunch
12:30 p.m.	Public comment period
12:50 p.m.	Review and discuss initial fiscal impacts analysis
3:20 p.m.	Break
3:30 p.m.	RAC member reflections roundtable
4:20 p.m.	Rulemaking next steps
4:25 p.m.	Closing remarks from DEQ Director Richard Whitman
4:30 p.m.	Adjourn meeting

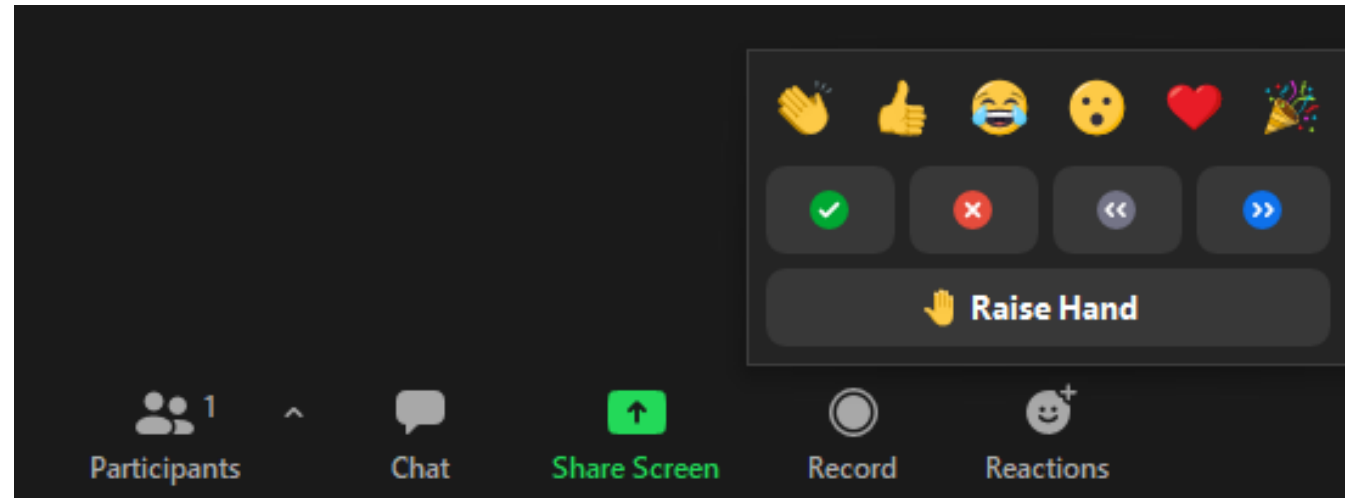
# Participation Tips

## Thank you for joining us today!

- Please join audio by either phone or computer, not both.
- RAC members: stay on mute when not speaking, and please join us on video if able
- Public: please stay on mute and please join us on video only when you're speaking
- For discussion and comments, use "Raise Hand" button to get in the queue; if joined by phone press \*9
- Say your name and affiliation before speaking
- Move around and take care of yourself as needed!
- For Zoom technical issues, send chat message to host

# How to Raise Hand

Look for the Raise Hand in Zoom panel



# Public Participation Protocols

- Public participation is welcome – thank you!
- Public comment period
  - 12:30 – 12:50 p.m.
- Time for public comment, though primary purpose is RAC discussion
- When making comments, please respect time limits and ground rules
- We ask for one public comment per person, per meeting
- Welcome to provide written comments
  - [GHGCR2021@deq.state.or.us](mailto:GHGCR2021@deq.state.or.us)
  - Requested by July 16

# Committee Discussion Guidelines

- Honor the agenda and strive to stay on topic
- Provide a balance of speaking time
- Listen to understand and ask questions to clarify
- Stay engaged and be open about your perspective and experience
- Address issues and questions – focus on substance of comments

# DEQ and Kearns & West

## Oregon DEQ

**Colin McConnaha**

Manager, Office of GHG Programs

**Nicole Singh**

Senior Climate Policy Advisor

**Matthew Espie**

Climate Policy Analyst

**Lauren Slawsky**

Climate Policy Analyst

**Becka Puskas**

Environmental Law Specialist

**Matt Davis**

Senior Policy Analyst

## Kearns & West

**Sylvia Ciborowski**

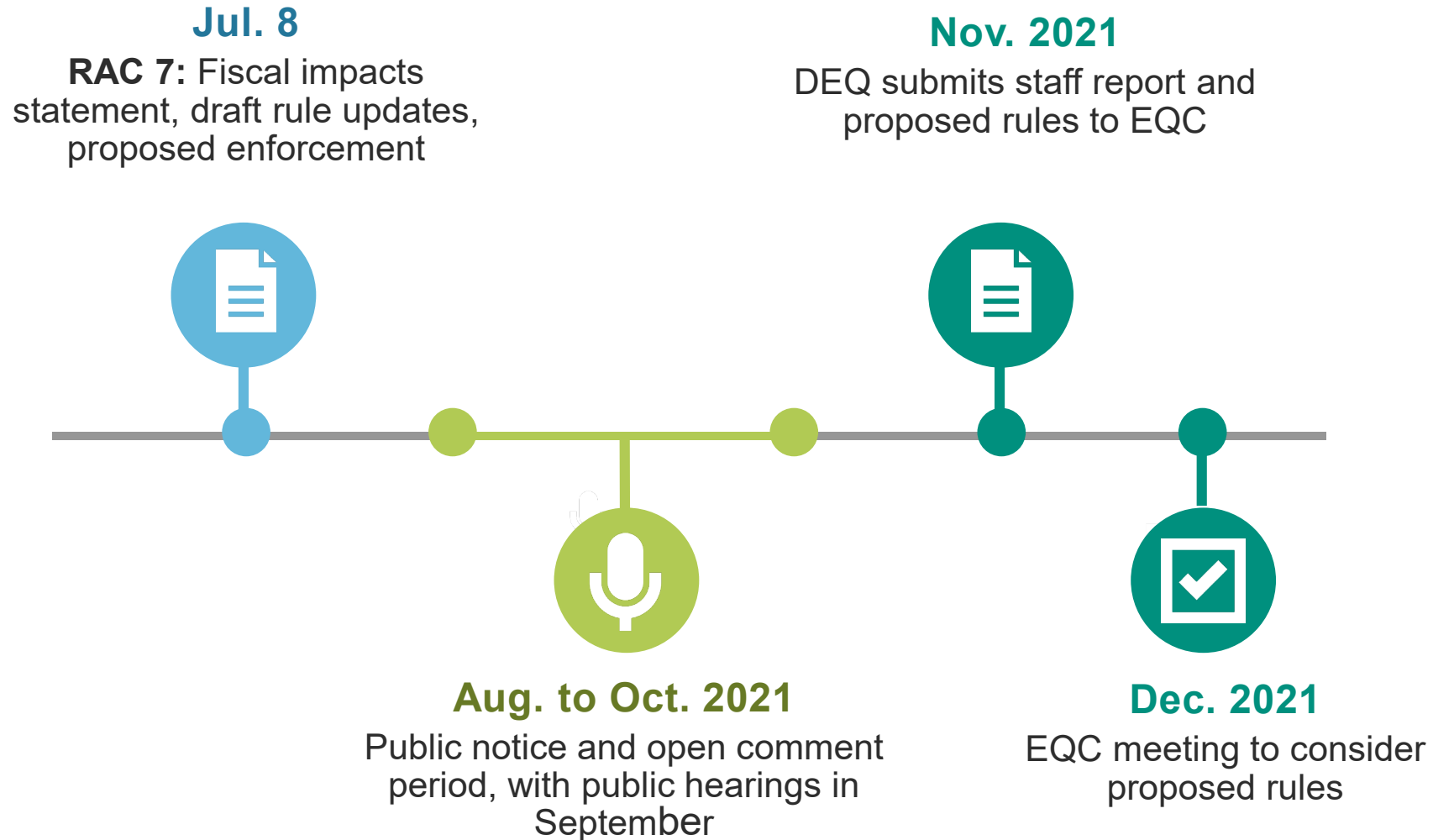
Senior Director / Facilitator

# RAC #7 Agenda

Time	Topic
9:00 a.m.	Welcome
9:05 a.m.	Meeting ground rules, procedures for public comment
<b>9:10 a.m.</b>	<b>Meeting Overview</b>
9:15 a.m.	Review proposed rule updates for applicability and covered fuel suppliers
9:45 a.m.	Review base cap and emissions trajectory
10:00 a.m.	Break
10:10 a.m.	Review proposed rule updates for community climate investments, covered stationary sources, and other updates
11:00 a.m.	Review proposed enforcement process, <i>DEQ Office of Compliance and Enforcement</i>
12:00 p.m.	Lunch
12:30 p.m.	Public comment period
12:50 p.m.	Review and discuss initial fiscal impacts analysis
3:20 p.m.	Break
3:30 p.m.	RAC member reflections roundtable
4:20 p.m.	Rulemaking next steps
4:25 p.m.	Closing remarks from DEQ Director Richard Whitman
4:30 p.m.	Adjourn meeting



# CPP RAC & Rulemaking Timeline



# CPP Draft Rules Outline (1/2)

Oregon Administrative Rules chapter 340 - proposing new **division 271**

Rule Number	Rule Topic
OAR 340-271-0010	Purpose and Scope
OAR 340-271-0020	Definitions
OAR 340-271-0030	Acronyms
OAR 340-271-0100s	General provisions: <ul style="list-style-type: none"><li>• Overview of general requirements</li><li>• Covered Entity and Covered Emissions Applicability</li><li>• Permitting</li></ul>
<b>OAR 340-271-0300s</b>	Provisions relating to covered stationary sources subject to CPP (best available emissions reduction approach)
OAR 340-271-0400s through -0900s	Provisions relating to covered fuel suppliers subject to the CPP (cap program approach)

# CPP Draft Rules Outline (2/2)

Rule Number	Rule Topic
OAR 340-271-0400s	Generation, distribution, and holding of compliance instruments
OAR 340-271-0500s	Demonstrating compliance
OAR 340-271-0600s	Trading of compliance instruments
OAR 340-271-0800s	Provisions relating to covered fuel supplier eligibility to receive CCI credits
OAR 340-271-0900s	Provisions relating to third-party entities who implement projects with CCI funds
OAR 340-271-1000s through -1200s	Additional provisions to operationalize and streamline the program, such as program review
OAR 340-271-1300	Tables

# RAC #7 Agenda

Time	Topic
9:00 a.m.	Welcome
9:05 a.m.	Meeting ground rules, procedures for public comment
9:10 a.m.	Meeting Overview
<b>9:15 a.m.</b>	<b>Review proposed rule updates for applicability and covered fuel suppliers</b>
9:45 a.m.	Review base cap and emissions trajectory
10:00 a.m.	Break
10:10 a.m.	Review proposed rule updates for community climate investments, covered stationary sources, and other updates
11:00 a.m.	Review proposed enforcement process, <i>DEQ Office of Compliance and Enforcement</i>
12:00 p.m.	Lunch
12:30 p.m.	Public comment period
12:50 p.m.	Review and discuss initial fiscal impacts analysis
3:20 p.m.	Break
3:30 p.m.	RAC member reflections roundtable
4:20 p.m.	Rulemaking next steps
4:25 p.m.	Closing remarks from DEQ Director Richard Whitman
4:30 p.m.	Adjourn meeting

# Threshold for Non-Natural Gas Fuel Suppliers

- Version 2 of draft rules included a 200,000 MT CO<sub>2</sub>e threshold
  - A non-natural fuel supplier would have been covered if its emissions were equal to or exceeded 200,000 MT CO<sub>2</sub>e in 2018 or any subsequent calendar year.
  - The fuel supplier would have been covered until its emissions were below the threshold for six consecutive years
- DEQ now proposes for the threshold to decline over time to 25,000 MT CO<sub>2</sub>e
  - Would cover approximately 99% of in-scope emissions based on 2019 data

Year	Threshold
2022 through 2024	200,000 MT CO <sub>2</sub> e
2025 through 2027	100,000 MT CO <sub>2</sub> e
2028 through 2030	50,000 MT CO <sub>2</sub> e
2031 and each year thereafter	25,000 MT CO <sub>2</sub> e

# Determining Covered Entities and Cessation

- A non-natural gas fuel supplier becomes covered the year its emissions equal or exceed the threshold, or if the emissions equal or exceed the threshold in any of the 4 preceding years
  - For example, any entity with emissions above 200,000 MT CO<sub>2</sub>e in 2018 or any subsequent year is covered beginning 2022
  - For example, any entity with emissions above 100,000 MT CO<sub>2</sub>e in 2021 or any subsequent year is covered beginning 2025
- A covered fuel supplier ceases to be covered once its emissions are below 25,000 MT CO<sub>2</sub>e for six consecutive years

# Compliance Instrument Reserve

- Version 2 of draft rules included a reserve of 1 million compliance instruments
- DEQ now proposes:
  - Reserve of 800,000 compliance instruments, built over 2 years
  - Reserve will decrease in size over time (due to declining threshold and cap trajectory)
  - When the reserve size decreases, DEQ may retire or distribute any excess compliance instruments from the reserve

Year	Reserve Size
2022	400,000 compliance instruments
2023 through 2030	800,000 compliance instruments
2031 through 2040	500,000 compliance instruments
2041 and each year thereafter	250,000 compliance instruments

# Questions for Discussion

- Do you support a declining threshold for non-natural gas fuel suppliers? If not, what would you propose?
- Do you support the corresponding changes to the compliance instrument reserve? If not, what would you propose?



# RAC #7 Agenda

Time	Topic
9:00 a.m.	Welcome
9:05 a.m.	Meeting ground rules, procedures for public comment
9:10 a.m.	Meeting Overview
9:15 a.m.	Review proposed rule updates for applicability and covered fuel suppliers
<b>9:45 a.m.</b>	<b>Review base cap and emissions trajectory</b>
10:00 a.m.	Break
10:10 a.m.	Review proposed rule updates for community climate investments, covered stationary sources, and other updates
11:00 a.m.	Review proposed enforcement process, <i>DEQ Office of Compliance and Enforcement</i>
12:00 p.m.	Lunch
12:30 p.m.	Public comment period
12:50 p.m.	Review and discuss initial fiscal impacts analysis
3:20 p.m.	Break
3:30 p.m.	RAC member reflections roundtable
4:20 p.m.	Rulemaking next steps
4:25 p.m.	Closing remarks from DEQ Director Richard Whitman
4:30 p.m.	Adjourn meeting

# Base Cap and Trajectory: Considerations

- As presented at RAC 6:
  - Propose to continue to use recently reported data in determining the 2022 base cap
  - Propose to use a three-year average to mitigate annual variation (2017-2019)
- Cap applies to covered fuel suppliers
  - Natural gas utilities
  - Non natural gas fuel suppliers
- Cap updated for expanded emissions scope as fuel supplier thresholds declines

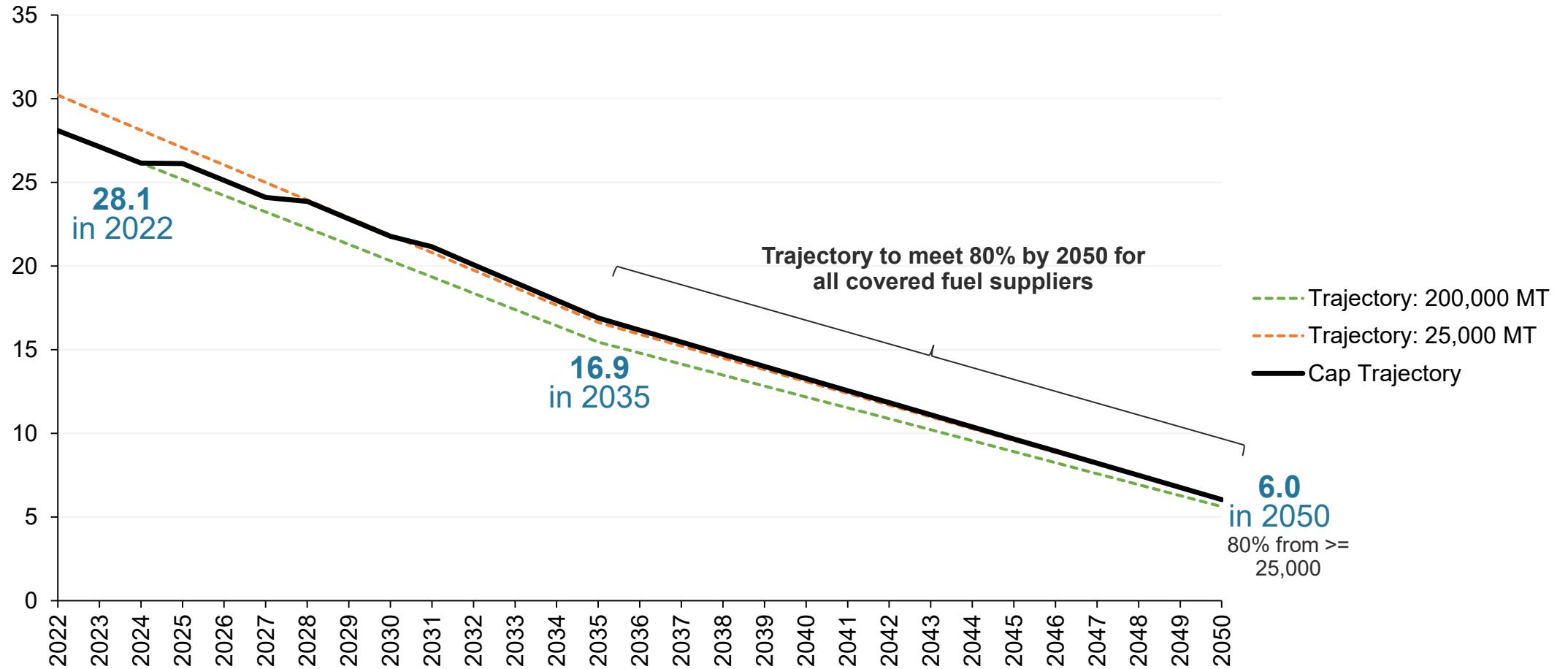
Threshold Code	Threshold	Calendar Year
Threshold 1	200,000 MT CO <sub>2</sub> e	2022 through 2024
Threshold 2	100,000 MT CO <sub>2</sub> e	2025 through 2027
Threshold 3	50,000 MT CO <sub>2</sub> e	2028 through 2030
Threshold 4	25,000 MT CO <sub>2</sub> e	2031 and each year thereafter

# Caps with Declining Threshold: DEQ Leaning

- Base Cap
  - Proposed base cap for 2022 of 28.1 million MT CO<sub>2</sub>e remains unchanged
  - Average 2017- 2019 covered emissions for natural gas utilities and fuel suppliers  $\geq$  200,000 MT
- Cap Trajectory
  - Annual % reductions to 2035 maintained, except for adjustment for years in which threshold declines to include more covered fuel suppliers (2025, 2028, 2031)
  - Cap adjusted for new covered fuel suppliers based on average 2017-2019 covered emissions
  - 2050 cap is 80% reduction from average 2017-2019 covered emissions for all covered fuel suppliers

# Cap with Declining Threshold: DEQ Leaning

Proposed Cap Trajectory (Million)



# Questions for Discussion

- Do you support DEQ's leaning for incorporating new covered fuel suppliers as the threshold declines (2025, 2028, 2031)? If not, what would you propose?
- Do you support DEQ's leaning for an interim 2035 target and final 2050 target? If not, what would you propose?

# RAC #7 Agenda

Time	Topic
9:00 a.m.	Welcome
9:05 a.m.	Meeting ground rules, procedures for public comment
9:10 a.m.	Meeting Overview
9:15 a.m.	Review proposed rule updates for applicability and covered fuel suppliers
9:45 a.m.	Review base cap and emissions trajectory
10:00 a.m.	Break
<b>10:10 a.m.</b>	<b>Review proposed rule updates for CCIs, covered stationary sources, and other updates</b>
11:00 a.m.	Review proposed enforcement process, <i>DEQ Office of Compliance and Enforcement</i>
12:00 p.m.	Lunch
12:30 p.m.	Public comment period
12:50 p.m.	Review and discuss initial fiscal impacts analysis
3:20 p.m.	Break
3:30 p.m.	RAC member reflections roundtable
4:20 p.m.	Rulemaking next steps
4:25 p.m.	Closing remarks from DEQ Director Richard Whitman
4:30 p.m.	Adjourn meeting

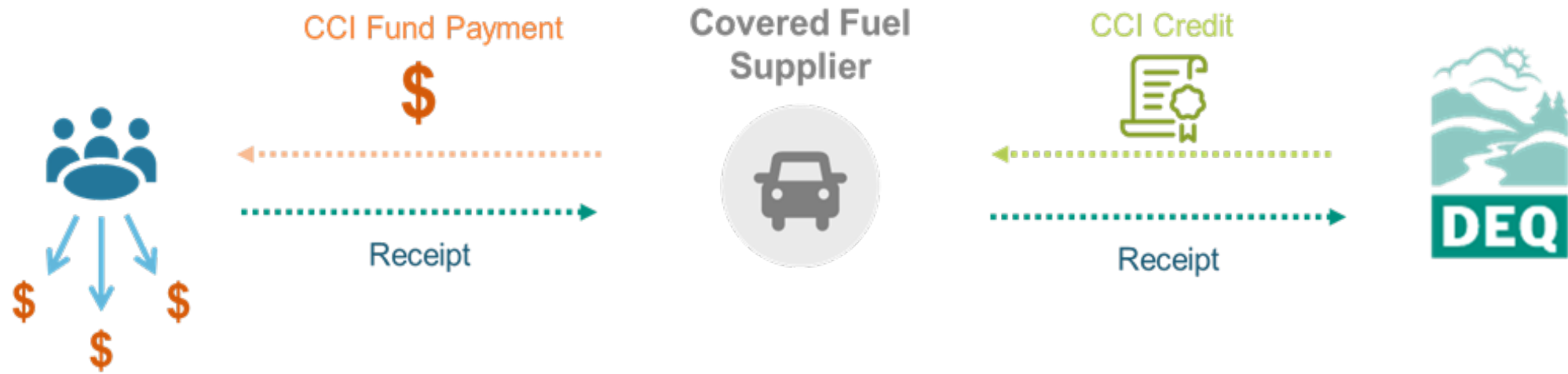
# Proposed Updates for Covered Stationary Sources

- DEQ BAER Assessment
  - Clarify that assessment analyzes strategies for reducing covered emissions for that source
  - Sources not asked to rank strategies for reducing emissions based on their preference
  - Sources not asked to identify which reduction strategies are infeasible as DEQ determines feasibility and required actions for BAER determination
  - Clarify that DEQ may request additional information from the source, but can make a BAER determination with any available information
- DEQ BAER Determination
  - Add that DEQ will consider impacts on the type or quality of good produced when setting required actions in a BAER determination

# Community Climate Investments (CCIs): Overview

Covered fuel suppliers could invest in projects that reduce GHG emissions to earn CCI credits

- 1 CCI credit generally equivalent to 1 compliance instrument
- Only alternative compliance option for CPP
- DEQ, with equity advisory committee, selects third parties to receive funds and implement projects
- DEQ sets the same price for each CCI credit
- DEQ distributes CCI credits





# Community Climate Investments: Key Updates

- Clarifications on project prioritization:
  - Achieve significant greenhouse gas emissions reductions
  - Reduce other air contaminant emissions
  - Benefit disproportionately impacted communities: Black, Indigenous, communities of color, and low-income and rural communities
- Clarifications on the equity advisory committee
  - DEQ will prioritize committee membership from multiple regions of Oregon and multiple areas of expertise, interest, and lived experience

# Community Climate Investments: Emissions Reductions

- CCI entities must propose a method to estimate emissions reductions (from GHGs and other air contaminants) achieved from implemented projects
  - Methodology may be revised with DEQ approval
- CCI entities must report annually on the emissions reductions achieved
- Program review where DEQ will:
  - Report to the EQC on community climate investments every **two** years
  - Compare total CCI credits distributed and total emissions reductions achieved to assess average (for example, is it 1 to 1?)
  - Consider with EQC the need for any program changes

# Community Climate Investments: CCI Entities

- Clarifications on eligible projects:
  - Must propose at least one project with initial application and after approved as a CCI entity can still propose additional projects later for DEQ approval
  - May implement a project itself or in partnership with others (subcontracting)
- Additional provisions:
  - Must be a 501(c)(3) nonprofit, but project partners don't need to be
    - For example, for-profit businesses, tribal governments; CCI funds can be used to pay them
    - Covered entities may not be partners and may not receive CCI funds
  - In initial application, a CCI entity must describe history of itself and of known project partners on implementing or supporting implementation of projects or serving communities described in other parts of the application

# Compliance Instrument Distribution

- Currently, proposed compliance instruments distribution methodology is based on covered emissions
- DEQ could include emissions from biofuels in compliance instrument distribution methodology
  - Emissions from biofuels are still not covered emissions and do not have a compliance obligation
- Creates an incentive to supply biofuels
- Could lower compliance costs for reducing emissions

# Compliance Instrument Distribution

## Illustrative example

- Cap for the year is 25 million MT CO<sub>2</sub>e
- Two covered fuel suppliers each emit 3.5 million MT CO<sub>2</sub>e of covered emissions
- Covered fuel supplier A also supplied biofuels
  - Some examples of biofuels include: ethanol, biodiesel, renewable diesel, renewable natural gas, etc.

Fuel type	Total		Covered fuel supplier A		Covered fuel supplier B	
	Fossil fuel	Biofuel	Fossil fuel	Biofuel	Fossil fuel	Biofuel
Emissions during evaluation period (million MT CO <sub>2</sub> e)	26	1	3.5	0.2	3.5	0.0
Compliance instruments distributed (million)	25		3.4		3.2	

# Questions for Discussion

- Questions or comments on DEQ clarifications and updates for the BAER process?
- Questions or comments on DEQ clarifications and updates for community climate investments?
- Comments on the potential change for determining how to distribute compliance instruments?

# RAC #7 Agenda

Time	Topic
9:00 a.m.	Welcome
9:05 a.m.	Meeting ground rules, procedures for public comment
9:10 a.m.	Meeting Overview
9:15 a.m.	Review proposed rule updates for applicability and covered fuel suppliers
9:45 a.m.	Review base cap and emissions trajectory
10:00 a.m.	Break
10:10 a.m.	Review proposed rule updates for CCIs, covered stationary sources, and other updates
<b>11:00 a.m.</b>	<b>Review proposed enforcement process, <i>DEQ Office of Compliance and Enforcement</i></b>
12:00 p.m.	Lunch
12:30 p.m.	Public comment period
12:50 p.m.	Review and discuss initial fiscal impacts analysis
3:20 p.m.	Break
3:30 p.m.	RAC member reflections roundtable
4:20 p.m.	Rulemaking next steps
4:25 p.m.	Closing remarks from DEQ Director Richard Whitman
4:30 p.m.	Adjourn meeting

# Enforcement Outline

## **DEQ enforcement policy**

- Why and When DEQ conducts enforcement

## **DEQ enforcement process**

- How it works, from identifying a violation to final DEQ order
- Key aspects of enforcement approach for Climate Protection Program



# DEQ's Enforcement Policy – *Why?*

- Deters non-compliance
- Promotes fairness and “levels the playing field”
- Enforcement achieves beneficial public health and environmental outcomes

# DEQ's Enforcement Policy – *When?*

- Ensure consistent statewide enforcement program
- Escalating enforcement response
- Focus on foundational requirements and activity that harms or may harm public health and the environment

# The Enforcement Process



# The Enforcement Process

Violation

- Begins when DEQ discovers a **violation** during an inspection or report review
- Violations are any non-compliance with DEQ's substantive rules
- Violation types are classified in Division 12 rules (Class I, II, III)

# The Enforcement Process

## Enforcement Response

- Policy directs DEQ staff on the appropriate **Enforcement Response** for each type of violation: Warning Letter or Pre-Enforcement Notice (PEN). *Ensures consistent statewide approach*
- *Formal enforcement* begins with a Notice of Civil Penalty Assessment and Order.
- *Civil penalty* is calculated based on Division 12 formula. The formula takes into account factors that DEQ is required to consider by statute, and includes:
  - Base penalty
  - “Aggravating and mitigating factors” (e.g. prior enforcement history, mental state)
  - Economic benefit
- Civil penalty is subject to a statutory maximum of \$25,000 per day for each violation
- Order may include *corrective actions* to achieve compliance or restrain further violations

# The Enforcement Process

## Settlement

- DEQ will always offer informal negotiations to foster settlement
- Settlement is achieved through a Mutual Agreement and Final Order (MAO) and based on guidance, penalty assessment rules, policy, and consistent agency practice
  - The MAO is an enforceable DEQ final order
  - It includes the final penalty amount, how it will be paid, and any corrective actions
  - Violations of the MAO are subject to further enforcement action and civil penalties

# The Enforcement Process

Contested  
Case  
Hearing

- Formal hearing before an Administrative Law Judge (ALJ)
- Trial-like setting, present evidence and question witnesses
- DEQ has the burden of proof regarding 1) whether violations occurred, and 2) whether penalty is appropriate under Division 12 rules. Standard of proof is the preponderance of evidence

# The Enforcement Process

Final Order

- Final order resolves violations, penalty amount, and any corrective actions
- Either DEQ or Respondent may appeal Administrative Law Judge's order to the Environmental Quality Commission (EQC)



# CPP Enforcement Approach

Proposed update to draft Div. 271 Climate Protection Program

0510 rule (Demonstration of Compliance) will more clearly articulate that **each metric ton of a compliance obligation, for which a compliance instrument or CCI credit is not submitted, is a separate violation of Division 271**

# CPP Enforcement Approach

In proposed Division 12 updates, **Class I violations of CPP** will include:

- Operating without CPP permit, failing to comply with CPP permit
- Failing to demonstrate compliance under 0510 rule
- Failing to submit BAER assessment, failing to comply with BAER determination
- Other key Div. 271 obligations

# CPP Enforcement Approach

- *Civil penalty* is calculated based on Division 12 formula. The formula takes into account factors that DEQ is required to consider by statute, and includes:
  - Base penalty → **In proposed Division 12 updates, CPP violations will be in the highest (\$12,000) base penalty matrix**
  - “Aggravating and mitigating factors” (e.g. prior enforcement history, mental state)
  - Economic benefit → **Avoided cost of compliance with CPP rules or permit provisions, which is additional to base penalty and aggravating and mitigating factors that determine the “gravity-based” penalty**

# Questions for Discussion

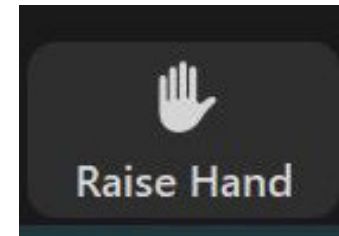
- Questions or comments on how enforcement could work for Climate Protection Program?

# RAC #7 Agenda

Time	Topic
9:00 a.m.	Welcome
9:05 a.m.	Meeting ground rules, procedures for public comment
9:10 a.m.	Meeting Overview
9:15 a.m.	Review proposed rule updates for applicability and covered fuel suppliers
9:45 a.m.	Review base cap and emissions trajectory
10:00 a.m.	Break
10:10 a.m.	Review proposed rule updates for community climate investments, covered stationary sources, and other updates
11:00 a.m.	Review proposed enforcement process, <i>DEQ Office of Compliance and Enforcement</i>
12:00 p.m.	Lunch
<b>12:30 p.m.</b>	<b>Public comment period</b>
12:50 p.m.	Review and discuss initial fiscal impacts analysis
3:20 p.m.	Break
3:30 p.m.	RAC member reflections roundtable
4:20 p.m.	Rulemaking next steps
4:25 p.m.	Closing remarks from DEQ Director Richard Whitman
4:30 p.m.	Adjourn meeting

# Public Comment Period

- Public comment period: 12:30 – 12:50 p.m.
- Raise your hand if you'd like to make a comment
- When making public comments, please:
  - Respect time limits as assigned
  - Use respectful language
  - Address issues and questions—focus on substance
  - When possible, relate comments to topics on the RAC agenda
- Members of the public welcome to provide written input to [GHGCR2021@deq.state.or.us](mailto:GHGCR2021@deq.state.or.us) by Jul. 16



# RAC #7 Agenda

Time	Topic
9:00 a.m.	Welcome
9:05 a.m.	Meeting ground rules, procedures for public comment
9:10 a.m.	Meeting Overview
9:15 a.m.	Review proposed rule updates for applicability and covered fuel suppliers
9:45 a.m.	Review base cap and emissions trajectory
10:00 a.m.	Break
10:10 a.m.	Review proposed rule updates for community climate investments, covered stationary sources, and other updates
11:00 a.m.	Review proposed enforcement process, <i>DEQ Office of Compliance and Enforcement</i>
12:00 p.m.	Lunch
12:30 p.m.	Public comment period
<b>12:50 p.m.</b>	<b>Review and discuss initial fiscal impacts analysis</b>
3:20 p.m.	Break
3:30 p.m.	RAC member reflections roundtable
4:20 p.m.	Rulemaking next steps
4:25 p.m.	Closing remarks from DEQ Director Richard Whitman
4:30 p.m.	Adjourn meeting

# Fiscal Impact Statement (FIS)

- Requirements:
  - Agency must provide notice of fiscal impact for proposed rules
    - Impacts can be both positive and negative
  - If significant small business impacts, consider mitigation
- Required elements:
  - Analysis of any significant fiscal impacts on
    - Large businesses subject to the proposed rule
    - Small businesses subject to the proposed rule
    - State and federal agencies
    - Local government
    - Public
  - Possible mitigation measures for impacts on small businesses
  - Housing cost



# Fiscal Impact Statement (FIS)

- Asking the RAC to help us consider the fiscal and economic impact of the proposed rules
  - Is there a fiscal impact for covered entities and if so, what is the extent of that impact?
  - Is there a potential significant adverse impact on covered entities that are small businesses, and if so, how could we mitigate that impact?
- DEQ will consider this input as we review and update the initial draft fiscal impacts statement for public notice

# Proposed Draft FIS

## Proposed draft fiscal impact statement

- Aligns with rule as discussed in today's presentation
- Results are grouped by direct and indirect impacts
- Discusses different parts of the rule separately
  - Impacts from the proposed cap program to covered fuel suppliers
  - Impacts from the BAER approach to covered stationary sources
  - Impacts from new permitting, reporting, and recordkeeping requirements
  - Impacts from enforcement

# FIS: Covered Entities

- Businesses that may be directly affected
  - 52 large businesses
  - 4 small businesses
  - Small businesses defined as having 50 or fewer employees

Covered Sector	Threshold	Count of Small Businesses
Covered fuel suppliers supplying liquid fuels or propane (non-natural gas fuel suppliers)	Greater than or equal to 200,000 MT CO <sub>2</sub> e (covered beginning 2022)	0
	Greater than or equal to 100,000 MT CO <sub>2</sub> e and less than 200,000 MT CO <sub>2</sub> e (covered beginning 2025)	2
	Greater than or equal to 50,000 MT CO <sub>2</sub> e and less than 100,000 MT CO <sub>2</sub> e (covered beginning 2028)	1
	Greater than or equal to 25,000 MT CO <sub>2</sub> e and less than 50,000 MT CO <sub>2</sub> e (covered beginning 2031)	1
Covered fuel suppliers that are natural gas utilities	N/A (covered beginning 2022)	0
Covered stationary sources (air permit holders)	Greater than or equal to 25,000 MT CO <sub>2</sub> e (covered beginning 2022)	0

# FIS: Compliance for Covered Fuel Suppliers

- DEQ will distribute compliance instruments at no cost
  - Therefore, costs are for emissions reduction beyond the level allowed by DEQ-distributed compliance instruments
- Several compliance options with different costs:
  - Reduce emissions
  - Leverage multi-year compliance periods and banking
  - Trade compliance instruments
  - Fund CCIs and use CCI credits
- Costs can vary by entity, compliance option, and over time
- Following provide examples of potential costs for these compliance options as cap declines in the future

# FIS: Compliance for Covered Fuel Suppliers

- Potential emission reduction costs are from the ICF analysis and assumptions underlying the modeling study on program options to reduce greenhouse gas emissions
- ICF modeling study relies on technology costs and reduction pathways that exists today
  - Costs likely to change and decline over time
- Emission reduction estimates depend on many variables and may be borne by covered fuel suppliers or others, such as consumers

# FIS: Compliance for Covered Fuel Suppliers

- **Reduce emissions**

- Supply more biofuels instead of fossil fuels
- Supply less fuel overall
  - Could be due to energy efficiency or electrification
  - Change equipment, supplies, labor, operations, etc.
- Fiscal Impact (2020\$):
  - For natural gas, \$68 to \$188 per MT CO<sub>2</sub>e of emissions reduced (not total emitted)
  - For non-natural gas, \$50 to \$55 per MT CO<sub>2</sub>e of emissions reduced (not total emitted)
- Costs depend on many variables and may be borne by covered fuel suppliers or others
- Modeling study relies on technology costs and reduction pathways that exists today
  - Costs likely to change and decline over time

# FIS: Compliance for Covered Fuel Suppliers

- **Multi-year compliance period; banking, trading**
  - Three-year compliance periods can moderate costs
  - Banking may be a cost-effective compliance option if cost to reduce early is cheaper than cost to reduce later
  - Fiscal Impact:
    - Trading prices will vary, but may be less than the contribution required to earn a CCI credit
    - Banking may have a cost, but DEQ expects covered fuel suppliers will only bank when it is cost-effective

# FIS: Compliance for Covered Fuel Suppliers

- **Fund CCIs and use CCI credits**

- Can comply with 20% of obligation with credits

- Fiscal Impact (2020\$):

- \$78 to earn one CCI credit in 2022, increasing by a little more than \$1 per year

- DEQ expects the maximum cost for an average covered fuel supplier would be through the use of CCI credits, especially in early years of the program



# FIS: Compliance for Covered Fuel Suppliers

- **Illustrative example for using CCI credits**

Baseline emissions: 1 million MT CO<sub>2</sub>e

- Receives 950,000 compliance instruments
- Costs limited to remaining 50,000 MT CO<sub>2</sub>e
- If cheaper, may reduce emissions or acquire compliance instruments in a trade OR could earn CCI credits ( $\$78 \times 50,000 = \$3.9$  million)
- Cost to earn CCI credits may be maximum cost in the near-term:
  - Since the base cap equals average covered emissions 2017-2019, an average entity could operate at that same level and fully comply (including with CCI credits) for several years
  - CCI credits may no longer be the maximum cost once the supplier receives compliance instruments in an amount that is <80% of baseline emissions

# FIS: Program Admin. for Covered Fuel Suppliers

- One-time cost to register with program and apply for permit
- Reporting to demonstrate compliance once every 3 years
  - May add incremental increase in staff time for some additional reporting to DEQ
- Retain records for 7 years
  - May add incremental increase for entities that need to add capacity to retain new CPP records
- Fiscal Impact: may range from \$0 to \$3,971 (2020\$) in a year where demonstration of compliance is due

Fiscal impact based on EPA Regulatory Impact Analysis for the Mandatory Reporting of GHG Emissions Final Rule. High estimate represents highest costs from the EPA report for CPP potentially regulated entities.

# FIS: Program Admin. for Covered Stationary Sources

- One-time cost to register with program
- Applying for permit addendum/modification no more than once per 5 years
  - Permit modifications may incur a fee per existing ACDP and Title V permit requirements
- Reporting of:
  - Progress reports (annually after BAER determination)
  - BAER assessment, implementation plan, review report, completion report (no more than once per 5 years)
  - May add incremental increase in staff time for some additional reporting to DEQ
- Retain records for 10 years
  - May add incremental increase for entities that do not retain records for >7 years or need to add capacity to retain new CPP records
- Fiscal Impact: may range from \$0 to \$6,854 (2020\$) for CPP-related administrative costs

Fiscal impact based on EPA Regulatory Impact Analysis for the Mandatory Reporting of GHG Emissions Final Rule. High estimate represents highest costs from the EPA report for CPP potentially regulated entities.

# FIS: Compliance for Covered Stationary Sources

- **BAER assessment, implementation plan, and five year review reports**
  - Costs of available in-house professional and technical resources
  - Costs of any needed third-party consultants
- Fiscal Impact:
  - BAER assessment cost could be either or both:
  - Facility professional resources: \$5,000 - \$30,000
  - Consultants: \$5,000 - \$30,000
- Costs to compile and submit implementation plans and review reports (no more than once every 5 years) may be on the lower end of BAER assessment cost ranges
- Costs can vary by complexity of business or industry

# FIS: Compliance for Covered Stationary Sources

- **Emissions reductions**
- Fiscal Impact (2020\$):
  - \$47 to \$190 (2020\$) per MT CO<sub>2</sub>e reduced (not total emitted)
- Range represents actions to reduce emissions for different industries
- Estimates include equipment, supplies, labor, administration
- There may be costs related to reduced production or leakage
- Costs depend on many variables and may be borne by covered stationary sources or others, such as consumers

Fiscal impact based on ICF analysis and assumptions underlying the modeling study on program options to reduce greenhouse gas emissions; EPA's Global Non-CO<sub>2</sub> report; McKinsey and Company study.

# FIS: Enforcement

- Costs to covered entities related to being involved in an enforcement action could include:
  - Correcting the violation
  - Payment of civil penalties, if assessed
- No economic impact on covered entities unless they violate the program rules
- Proposed amendments to Division 12 for the CPP were discussed earlier

# Small Business Impact Mitigation Measures

- Small businesses with  $\leq 50$  employees = 4 non-natural gas fuel suppliers
  - Impacts mainly described in covered entities
- Impact mitigation measures:
  - Few small businesses covered by program thresholds
    - Declining non-natural gas threshold means more time before small businesses are covered
  - Many compliance options for covered fuel suppliers
    - Reduce emissions
    - Multi-year compliance period
    - Trading, banking, and CCI credits
  - Site specific approach for stationary sources
    - Industry and facility considerations can be taken into account

# FIS Questions: Direct Impacts to Covered Entities

- Clarifying questions or comments on direct impacts to covered entities?
- Did DEQ adequately assess the proposed rule fiscal impact and the extent of that impact? Suggestions or alternatives if not adequately assessed?
- Do the draft rules have a significant adverse impact on small businesses that are covered entities?
- If so, any recommendations for reducing the impact for covered entity small businesses?



# FIS: The Public

## **Direct impact**

- Proposed rules do not impose any direct fiscal or economic effects on the public

## **Indirect impact**

- Consumers of fuels for energy and transportation and consumers of goods
- Job loss or job creation
- Improvements to public health

# FIS: Negative Impact to the Public



- Retail price of fuels and goods could **increase** if covered entities or indirectly impacted commercial businesses pass **costs** on to consumers
  - If alternative fuels/clean technologies that reduce emissions are less cost-effective than the fuels/existing operations they would replace, then the price of fuels or goods for consumers could increase
  - If a covered fuel supplier acquires compliance instruments beyond those distributed freely by DEQ or contributes funds to receive CCI credits, then the price for consumers could increase



- Potential job loss if covered entities were to curtail production

# FIS: Positive Impact to the Public



- Retail price of fuels and goods could **decrease** if covered entities or indirectly impacted commercial businesses pass **savings** on to consumers



- Public welfare benefits from climate action
  - Monetized health benefits up to \$2.29 billion (2020\$) from ICF modeling (2022-2050)
    - Reduce statewide adverse health impacts due to changes in criteria pollutant emissions from on-road mobile sources and other sources
    - May be conservative estimate due to modeling limitations

# FIS: Positive Impact to the Public



- Creation of new green jobs
  - Implementation of projects funded by CCIs
  - Energy transition



- Oregon community benefits from CCIs
  - Cost savings for communities disproportionately burdened by the effects of climate change, air contamination, and costs, namely communities that are disproportionately Black, Indigenous, and communities of color, as well as low-income and rural communities



- Overall small but positive impacts to economy for gross state product, job, and personal income
  - ICF modeling study on program options to reduce greenhouse gas emission

# FIS: Governments

## Direct impact

- Do not impose any direct effects on federal, state, or local agencies or tribal governments, unless they bring liquid or gaseous fuels into Oregon for use in the state or own or operate a large permitted facility
  - No instances identified, but if so, impacts described in covered entities

## Indirect impact

- Consumers of fuels and goods
  - Impacts assumed to be similar to impacts to the public
- Participation in public meetings related to CPP
  - Impacts may be time to participate and understand topics and could include travel/expenses

# FIS: CCI Entities

- Nonprofits can choose to apply to be approved as CCI entities
  - Some administrative costs to apply for and obtain approval from DEQ
- Once a CCI entity, costs related to project implementation and reporting are supported by CCI funds

# FIS Questions: The Public and Others

- Clarifying questions or comments on impacts to the public or others?
- Additional suggestions to better consider or assess fiscal impacts?
- Any additional comments on the fiscal impacts statement?

# RAC #7 Agenda

Time	Topic
9:00 a.m.	Welcome
9:05 a.m.	Meeting ground rules, procedures for public comment
9:10 a.m.	Meeting Overview
9:15 a.m.	Review proposed rule updates for applicability and covered fuel suppliers
9:45 a.m.	Review base cap and emissions trajectory
10:00 a.m.	Break
10:10 a.m.	Review proposed rule updates for community climate investments, covered stationary sources, and other updates
11:00 a.m.	Review proposed enforcement process, <i>DEQ Office of Compliance and Enforcement</i>
12:00 p.m.	Lunch
12:30 p.m.	Public comment period
12:50 p.m.	Review and discuss initial fiscal impacts analysis
3:20 p.m.	Break
<b>3:30 p.m.</b>	<b>RAC member reflections roundtable</b>
4:20 p.m.	Rulemaking next steps
4:25 p.m.	Closing remarks from DEQ Director Richard Whitman
4:30 p.m.	Adjourn meeting



# RAC Member Roundtable

- Thank you for your participation!
- In one minute or so, please share:
  - Final thoughts or reflections on the RAC process?
  - Final thoughts or reflections on the draft Climate Protection Program rules?

# RAC #7 Agenda

Time	Topic
9:00 a.m.	Welcome
9:05 a.m.	Meeting ground rules, procedures for public comment
9:10 a.m.	Meeting Overview
9:15 a.m.	Review proposed rule updates for applicability and covered fuel suppliers
9:45 a.m.	Review base cap and emissions trajectory
10:00 a.m.	Break
10:10 a.m.	Review proposed rule updates for community climate investments, covered stationary sources, and other updates
11:00 a.m.	Review proposed enforcement process, <i>DEQ Office of Compliance and Enforcement</i>
12:00 p.m.	Lunch
12:30 p.m.	Public comment period
12:50 p.m.	Review and discuss initial fiscal impacts analysis
3:20 p.m.	Break
3:30 p.m.	RAC member reflections roundtable
<b>4:20 p.m.</b>	<b>Rulemaking next steps</b>
4:25 p.m.	Closing remarks from DEQ Director Richard Whitman
4:30 p.m.	Adjourn meeting

# Next Steps for Climate Protection Program

- Comment on proposed updates to rule and information that may be helpful for fiscal impacts analysis
  - Please submit comments by end of day **Jul. 16, 2021** to [GHGCR2021@deq.state.or.us](mailto:GHGCR2021@deq.state.or.us)
- This is the final rulemaking advisory committee meeting
- Post public notice of CPP proposed rules in early August
  - Official document to Secretary of State including proposed rules, reason for proposals, fiscal impact statement
- Public comment period through early October
- Currently planning for two public hearings on proposed CPP
  - In addition to written comment
  - EQC will host at least one of the hearings

# RAC Meeting Resources

## **Sign up for meeting notifications:**

[https://public.govdelivery.com/accounts/ORDEQ/subscriber/new?topic\\_id=ORDEQ\\_655](https://public.govdelivery.com/accounts/ORDEQ/subscriber/new?topic_id=ORDEQ_655)

## **Rulemaking webpage:**

[www.oregon.gov/deq/Regulations/rulemaking/Pages/rghgcr2021.aspx](http://www.oregon.gov/deq/Regulations/rulemaking/Pages/rghgcr2021.aspx)

## **Rulemaking contact:**

[GHGCR2021@deq.state.or.us](mailto:GHGCR2021@deq.state.or.us)

## **Modeling study webpage:**

[www.oregon.gov/deq/ghgp/Pages/modelingstudy.aspx](http://www.oregon.gov/deq/ghgp/Pages/modelingstudy.aspx)

# RAC #7 Agenda

Time	Topic
9:00 a.m.	Welcome
9:05 a.m.	Meeting ground rules, procedures for public comment
9:10 a.m.	Meeting Overview
9:15 a.m.	Review proposed rule updates for applicability and covered fuel suppliers
9:45 a.m.	Review base cap and emissions trajectory
10:00 a.m.	Break
10:10 a.m.	Review proposed rule updates for community climate investments, covered stationary sources, and other updates
11:00 a.m.	Review proposed enforcement process, <i>DEQ Office of Compliance and Enforcement</i>
12:00 p.m.	Lunch
12:30 p.m.	Public comment period
12:50 p.m.	Review and discuss initial fiscal impacts analysis
3:20 p.m.	Break
3:30 p.m.	RAC member reflections roundtable
4:20 p.m.	Rulemaking next steps
<b>4:25 p.m.</b>	<b>Closing remarks from DEQ Director Richard Whitman</b>
4:30 p.m.	Adjourn meeting