

Climate Protection Program: Rulemaking Advisory Committee Meeting 5

May 25, 2021
9 a.m. - 4:30 p.m.

RAC #5 Agenda

Time	Topic
9:00 a.m.	Welcome
9:05 a.m.	Meeting ground rules, procedures for public comment
9:15 a.m.	Remarks by Director Whitman
9:25 a.m.	Review committee work plan and upcoming meetings
9:35 a.m.	Update on related public engagement activities
9:45 a.m.	Review initial draft rule language
11:30 a.m.	Break
11:45 a.m.	Discuss approaches for determining base emissions cap
12:30 p.m.	Lunch
1:00 p.m.	Public comment period #1
1:20 p.m.	Discussion of covered entities and compliance instrument distribution
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3:00 p.m.	Review initial draft rule language
4:15 p.m.	Next steps
4:20 p.m.	Public comment period #2
4:30 p.m.	Adjourn meeting

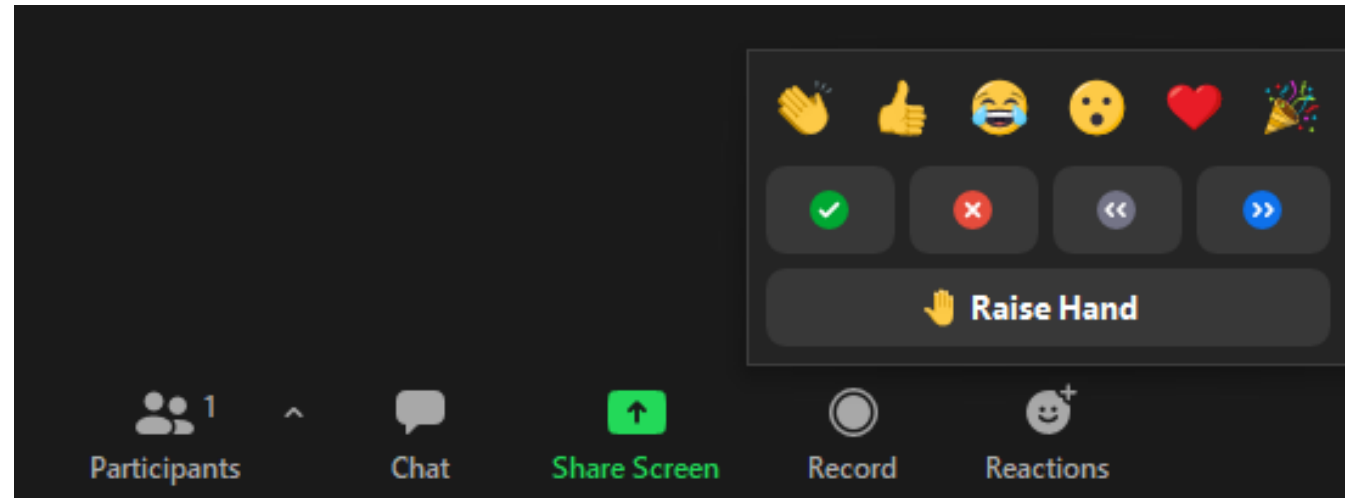
Participation Tips

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!
- Two public comment periods
 - 1:00 – 1:30 p.m.
 - 4:20 – 4:30 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
 - Requested by June 4

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
- Bring concerns and ideas up for discussion at the earliest point in the process

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

Matt Davis

Senior Policy Analyst

Kearns & West

Sylvia Ciborowski

Senior Director / Facilitator

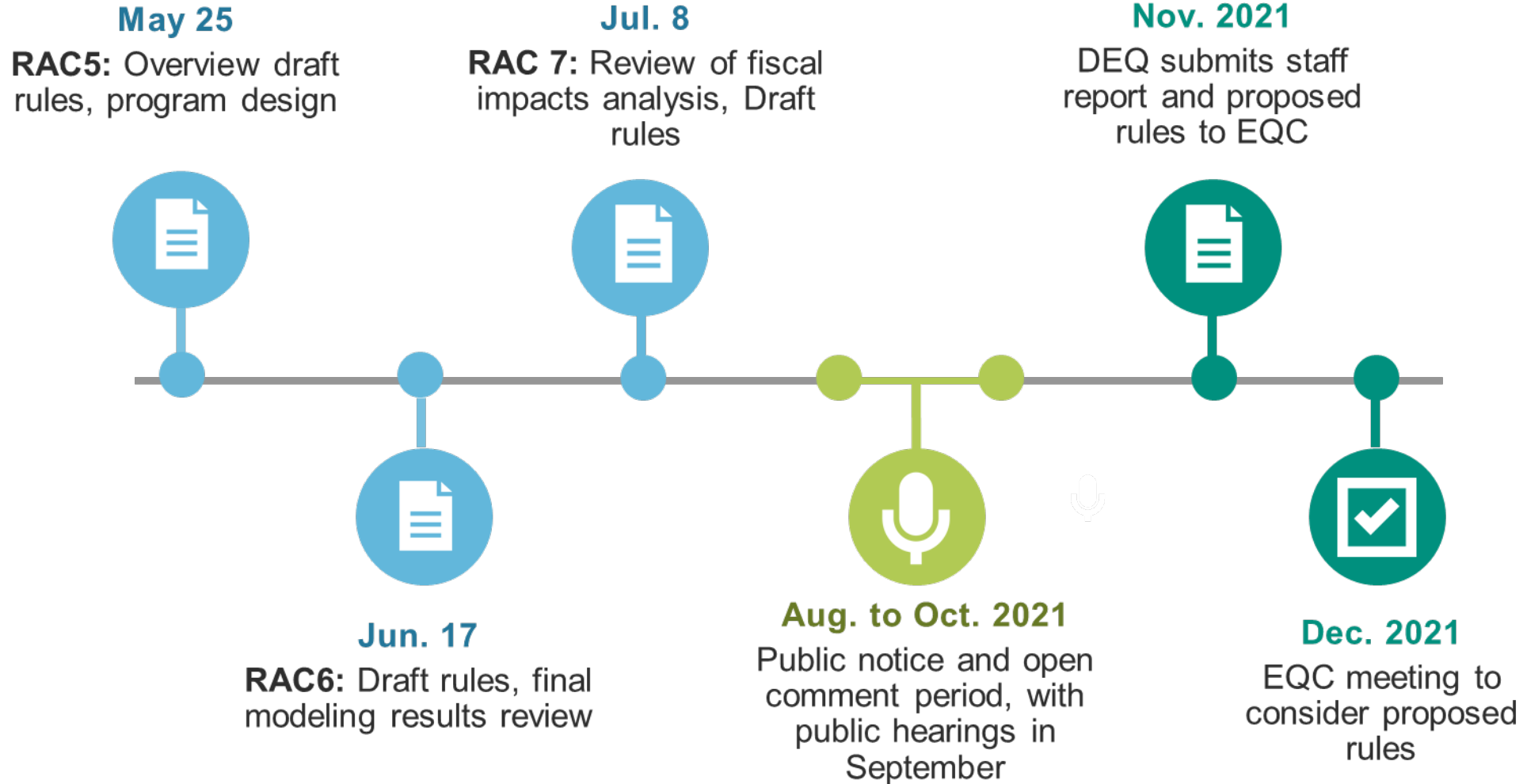
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CPP RAC & Rulemaking Timeline



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Supporting Public Engagement

- Unite Oregon & MultiCultural Collaborative project on climate change
 - Support regional climate justice committees
 - Workshop
- Familiarize communities with:
 - DEQ regulatory and rulemaking process
 - Climate Protection Program development



Government to Government Consultation

- Past engagement has included presentations to the Economic Development and Natural Resources Clusters
- Ongoing engagement:
 - Confederated Tribes of Coos, Low Umpqua and Siuslaw Tribal Council
 - Board of Trustees for the Confederated Tribes of the Umatilla Indian Reservation
 - Hoping to meet with Grande Ronde Tribal Council soon
- DEQ is making new solicitations of tribal governments for continued consultations
- Please let us know the most effective communication methods and venues

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Climate Protection Program Rules Development

- Oregon Administrative Rules chapter 340
 - Proposing a new division 271 for the proposed CPP
 - There are some potential other division updates
 - RAC 7
 - Any updates on draft rules
 - Next steps on proposed rule release
- RAC 5
 - Rule outline
 - Draft rules version 1
 - Accompanying reader's guide
- RAC 6
 - Draft rules version 2
 - Complete draft & updates from RAC 5
 - Accompanying reader's guide

CPP Draft Rules Outline (1/2)

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">• Overview of general requirements• Covered Entity and Covered Emissions Applicability
OAR 340-271-0200s through -0300s	Provisions relating to stationary sources subject to CPP
OAR 340-271-0400s through -0900s	Provisions relating to covered fuel suppliers subject to the CPP

CPP Draft Rules Outline (2/2)

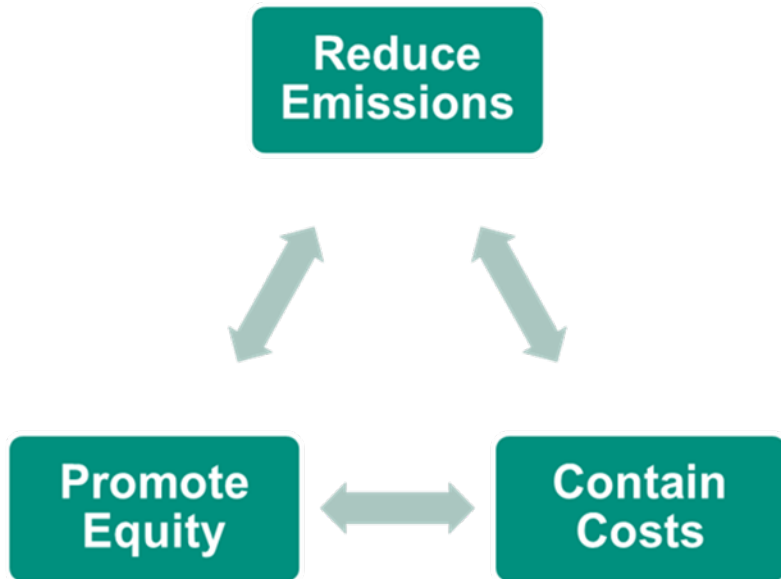
Rule Number	Rule Topic
OAR 340-271-0400s	Generation, distribution, and holding of compliance instruments
OAR 340-271-0500s	Demonstrating compliance
OAR 340-271-0600s	Trading of compliance instruments
OAR 340-271-0800s	Provisions relating to covered fuel supplier eligibility to receive CCI credits
OAR 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

Purpose and Scope (Rule 0010)

- Establishes requirements for the CPP
- Acknowledges that reducing GHG emissions will address climate change and improve the public welfare of Oregon
- Identifies the purposes of the program are:
 - to reduce greenhouse gas emissions from sources in Oregon,
 - achieve co-benefits from reduced emissions of other air contaminants, and
 - enhance public welfare for Oregon communities

Purpose and Scope (Rule 0010)

Example draft language addressing key program goals

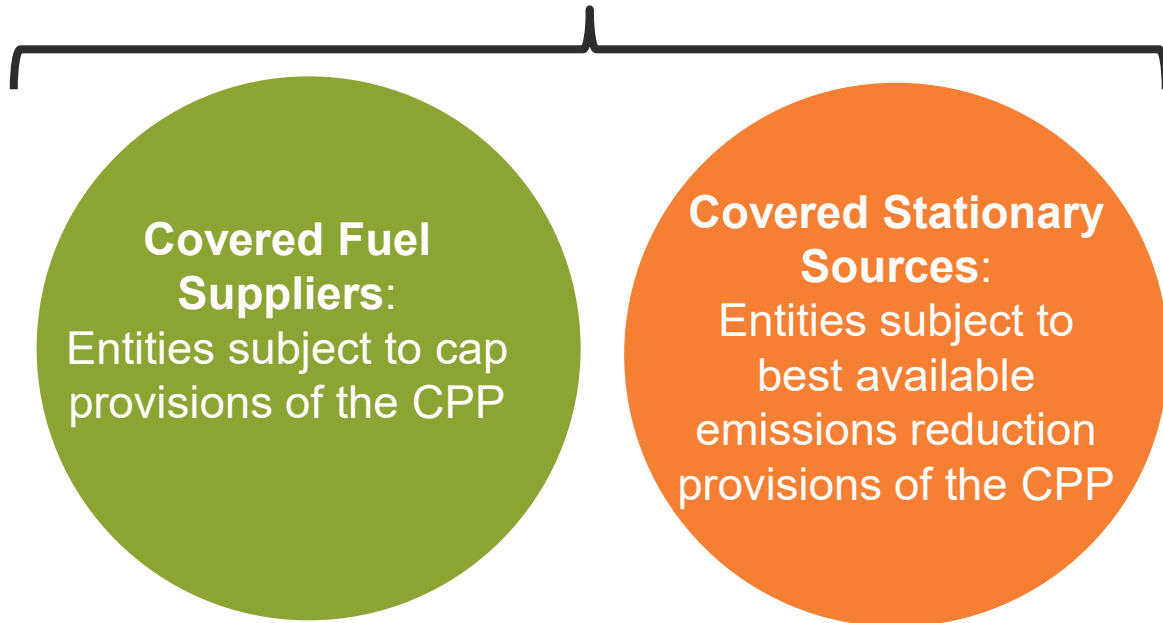


- “requires that covered entities reduce greenhouse gas emissions’
- “community climate investment funds and credits that reduce GHG emissions, support reduction of emissions of other air contaminants, and support investments to reduce emissions in communities disproportionately impacted by air contamination and climate change”
- “provides covered entities with compliance options to minimize disproportionate business and consumer economic impacts”

Applicability (Rule 0110)

- Identifies the entities and GHG emissions subject to the requirements of CPP

Covered Entities:
All entities subject to CPP



- Covered entities must comply with the applicable CPP requirements
- Overall scope of covered GHGs align with those reported to EPA and DEQ's GHG reporting program (division 215):
 - Carbon dioxide (CO₂)
 - Methane (CH₄)
 - Nitrous oxide (N₂O)
 - Sulfur hexafluoride (SF₆)
 - Hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and other fluorinated greenhouse gases

Applicability: Covered Fuel Suppliers

Rule 0110 Section (4): non-natural gas fuel suppliers

Entities

- Covered fuel suppliers include:
 - Entities that produce, import, sell, or distribute liquid fuels or propane in Oregon that result in GHG emissions when combusted and if the subset that are covered emissions are $\geq 200,000$ MTCO_{2e}
- Covered fuel suppliers exclude:
 - Entities with covered emissions below the threshold

Emissions

- Covered emissions include:
 - Anthropogenic GHG emissions from combustion of liquid fuels and propane
- Covered emissions don't include:
 - Emissions from biofuels (e.g. biodiesel, renewable propane, ethanol)
 - Emissions from fuels used for aviation (e.g. jet fuel, alternative jet fuel)
 - Fugitive emissions

Based on DEQ's GHG Reporting Program, in 2019 there were **9** entities that met this applicability resulting in **20.1 Million MTCO_{2e}** of covered emissions

Applicability: Covered Fuel Suppliers

Rule 0110 Section (5): natural gas utilities

Entities

- Covered fuel suppliers include:
 - Local distribution companies (i.e. utilities) that produce, import, sell, or distribute natural gas in Oregon that result in GHG emissions when combusted
- Covered fuel suppliers don't include:
 - Natural gas suppliers that are not utilities (e.g. interstate pipeline companies)

Emissions

- Covered emissions include:
 - Anthropogenic GHG emissions from combustion of natural gas
- Covered emissions don't include:
 - Emissions from biofuels (e.g. biomethane)
 - Emissions from natural gas delivered to a large electricity generating facilities*
 - Fugitive emissions

Based on DEQ's GHG Reporting Program, in 2019 there were **3** entities that met this applicability resulting in **7.5 Million MTCO₂e** of covered emissions

*Described in the rules as entities with NAICS (North American Industry Classification System) code of 221112, which is for Fossil Fuel Electric Power Generation.

Applicability: Covered Stationary Sources

Rule 0110 Section (6): **stationary sources**

Entities

- Covered stationary sources include:
 - Entities with the subset of covered emissions that are $\geq 25,000$ MTCO₂e
- Covered stationary sources exclude:
 - Entities with covered emissions below the threshold

Emissions

- Covered emissions include:
 - Anthropogenic GHG emissions from combustion of fuels and industrial processes
- Covered emissions don't include:
 - Emissions from biofuels (e.g. biomethane, woody biomass), biogenic CO₂ emissions from certain solid fuels, and emissions from liquid fuels and propane
 - Emissions already regulated at a covered fuel supplier
 - Emissions from landfills, large electricity generating facilities*, and natural gas compressor stations**
 - Fugitive emissions

Based on DEQ's GHG Reporting Program, in 2019 there were **14** entities that met this applicability resulting in **1.8 Million MTCO₂e** of covered emissions

*Described in the rules as entities with NAICS (North American Industry Classification System) code of 221112, which is for Fossil Fuel Electric Power Generation.

**Described in the rules as entities that are owned or operated by an interstate pipeline company.

Clarifying Questions

- Any questions about the draft rules that would be helpful for the whole group to hear?

Breakout Rooms

- Members of the public will remain in the main room while RAC members are in breakout group sessions
- RAC members: when returning to the main room, press “Leave Breakout Room”, NOT “Leave Meeting”



Proposed Questions for Breakout

1. Is the reader's guide a helpful resource?
2. Any considerations or suggestion for purpose and scope (Rule 0010)?
3. Any questions about how the drafted applicability (Rule 0110) section would work in practice? Any questions or comments on covered emissions (Rule 0110)?
4. What are your thoughts on DEQ's leanings relating to covered entity thresholds (Rule 0110)?
 - a. No threshold for covered emissions natural gas utilities; all are covered
 - b. 200,000 MTCO₂e of covered emissions for non-natural gas fuel suppliers
 - c. 25,000 MTCO₂e of covered emissions for stationary sources

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Base Cap: Definition and Use

What is the base cap?

- Starting emissions cap for the first year of the program (2022)

How will the base cap be used to determine annual emissions caps?

- Proposed cap reduction trajectory through 2050 applied to base cap
- Determines annual emission caps

Determining Base Cap: Considerations

- GHG emission reduction goals usually use 1990 baseline
 - Don't have data by entity as far back as 1990
- DEQ starts reported data by entity in 2010
- Potential advantages of using reported data to determine base cap
 - Data used to track compliance and progress toward targets
 - Data is more granular than broader sectoral estimates used previously
 - Data allow for more precision in calculation of emissions that would have been covered in a baseline given proposed covered entities, thresholds, etc.

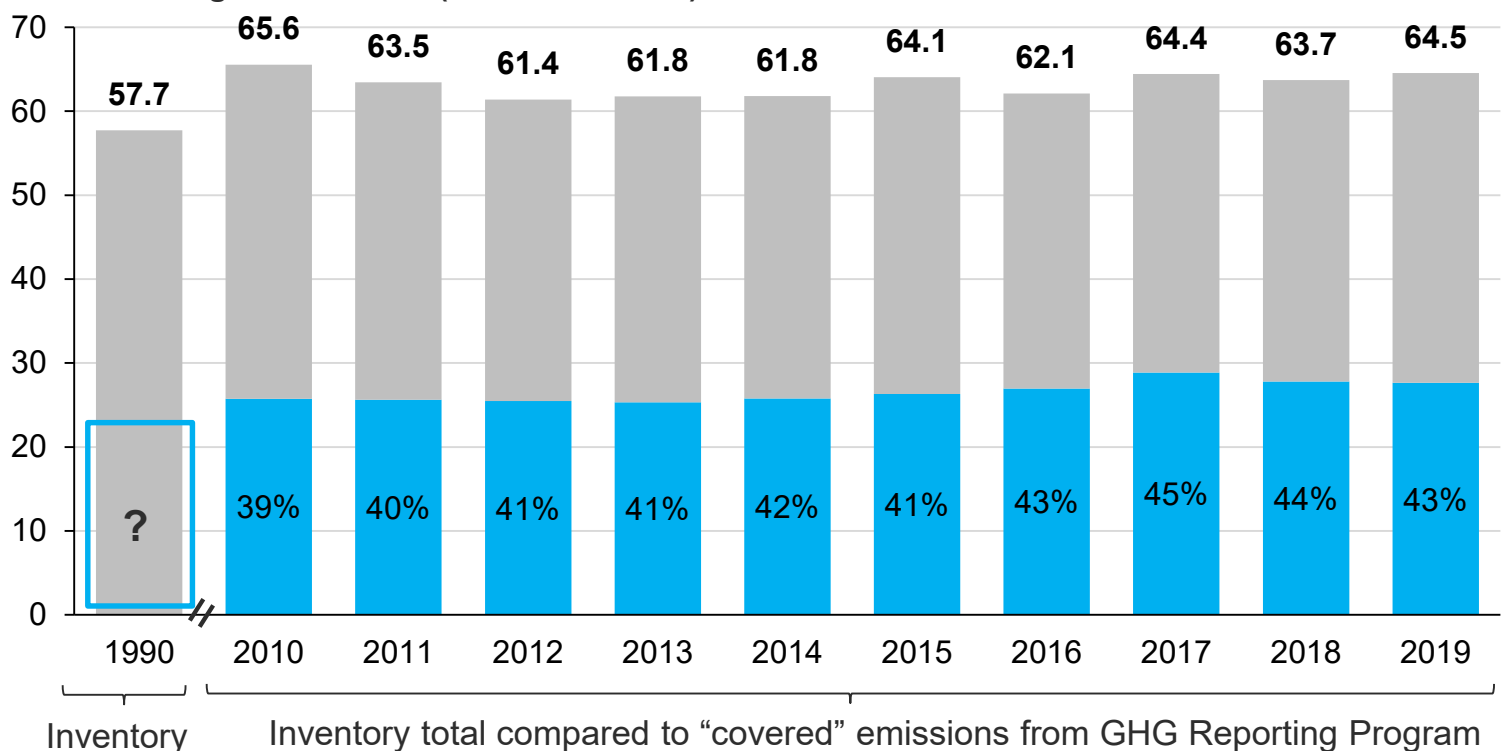
Determining Base Cap: Assumptions

Based on the applicability Rule 0110 in draft version 1 of the rules:

- Regulated under the cap approach
 - Non-natural gas fuel suppliers for liquid fuels and propane with covered emissions above the threshold of 200,000 MT CO₂e
 - Natural gas utilities
- Regulated under best available emissions reduction approach
 - Stationary sources (not under cap) with covered emissions above the threshold of 25,000 MT CO₂e

Statewide Inventory and Reported Covered Emissions

Greenhouse gas emissions (Million MTCO₂e)



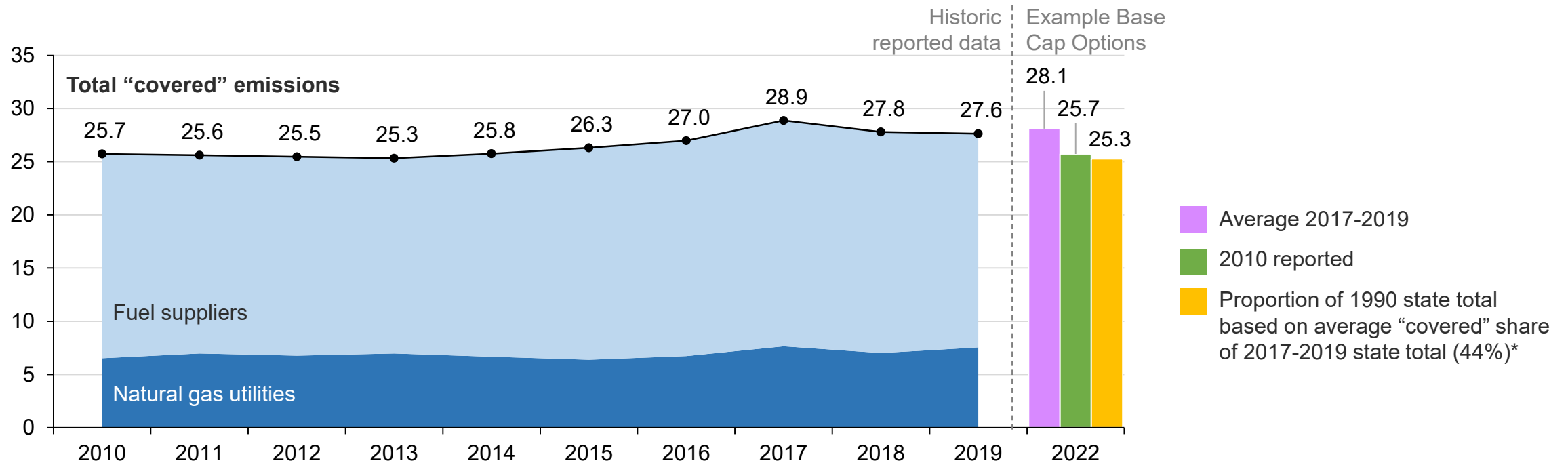
Totals = Oregon's Statewide Sector-based Inventory

- Other emissions in the statewide inventory
- Reported data from entities that would be "covered" in each year based on applicability

Determining Base Cap: Examples

Assumptions: natural gas utilities and fuel suppliers above 200,000 MTCO₂e threshold

Greenhouse gas emissions (Million MTCO₂e)



* For the cap based on 1990 inventory data: the unrounded total statewide emissions in 1990 were multiplied by the average "covered emissions" share of the inventory in 2017-2019. Numbers may not be equal due to rounding: 57.7 Million x 44% = 25.3 Million.

Note: Historic emissions for fuel suppliers based on entities with regulated emissions above the threshold in that year, not accounting for summing emissions from companies that may be related.

Questions and Feedback

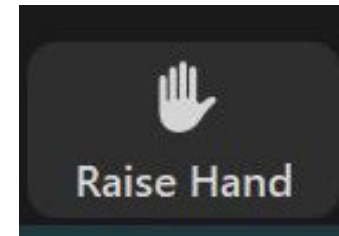
1. Any clarification questions on how the base cap will be used to calculate annual emission caps?
2. What data is best suited to determine the base cap? How many years of data should be used to determine the base cap?
3. What other considerations might there be for determining the base cap?

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Public Comment Period

- Public comment period: 1:00 – 1:20 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 by Jun. 3



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Covered Fuel Suppliers: Non-Natural Gas Fuel Suppliers

- Considerations for determining covered non-natural gas fuel suppliers:
 - Significant variability in fuel deliveries, emissions, ownership from year-to year
 - Variability also affects compliance instrument distribution
 - Small business impacts
- Ideas to address these considerations:
 - RAC members have suggested that fuel suppliers become covered beginning with the first year they meet or exceed the threshold
 - DEQ has also discussed other options, such as using average emissions to smooth variability

Covered Fuel Suppliers: Non-Natural Gas Fuel Suppliers (Rules 0110 and 0130)

DEQ leaning

- Cover non-natural gas fuel suppliers the first year they meet or exceed the threshold
 - Initial determinations could be based on historical data, such as the 3 to 5 years of most recently available data prior to program start (this leaning is not shown in draft rules, version 1, posted with Meeting 5 materials)
 - New entrants could be determined each year based on covered emissions in that year
- Entities remain covered until they are below the threshold for six consecutive years

Proportional Compliance Instrument Distribution

- DEQ will base compliance instrument distribution on reported emissions
 - For example, an entity that reported 1% of total covered emissions under the program may receive 1% of compliance instruments from a given year’s cap
 - This approach may: smooth annual variability, provide certainty, and minimize lag time between calculation of proportional share and distribution of compliance instruments

DEQ Leaning

- Calculate proportion annually based on three-year historical average, except for new entrants

Emissions years for evaluation period	Year in which evaluation to determine amount (and possibly distribution) occurs	Cap year for distribution of compliance instruments
2018 through 2020	2021	2022
2019 through 2021	2022	2023
Each subsequent three-year period	Each subsequent year	Each subsequent year

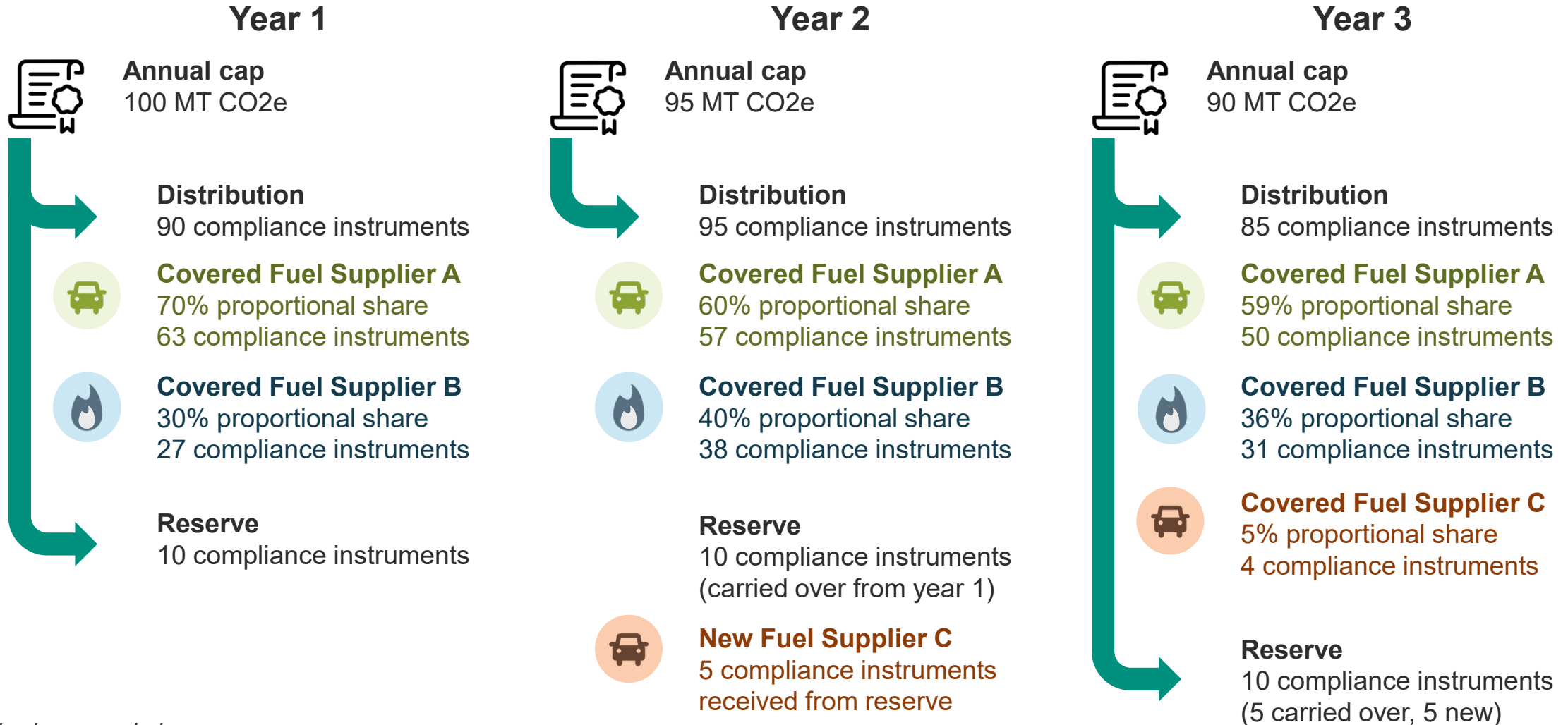
New Entrants and Compliance Instrument Reserve

- Distribution based on proportional share may not work for new entrants during the initial years they become covered
 - May become covered after compliance instrument distribution occurs
 - May not have sufficient data to calculate share
 - Could create uncertainty for existing covered fuel suppliers

DEQ Leaning

- Create a compliance instrument reserve for new entrants from within the cap
 - DEQ could distribute to new entrants from the reserve until there is sufficient data and time to use the proportional distribution methodology
 - DEQ could limit the amount a new entrant may receive based on available data or other limits
- Describe reserve size in program rules
 - The reserve could be a set amount with compliance instruments rolling over from year to year
 - DEQ could place more compliance instruments into the reserve annually, based on previous distributions from the reserve, to replenish the reserve as necessary

Illustrative Example of Compliance Instrument Reserve



All values rounded

Questions and Feedback

1. What are the advantages and disadvantages of distributing compliance instruments based on each entity's proportional share of emissions during a three-year period?
2. What are the advantages and disadvantages of creating a reserve of compliance instruments for new entrants?
3. Should DEQ limit the number of compliance instruments a new entrant could receive from the reserve, and if so, how?

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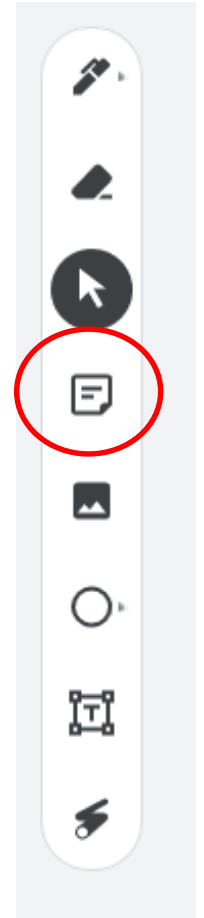
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Modeling: Next Steps

- Modeling scenarios
 - 4 policy scenarios
 - Compared against a reference case (projected world without CPP)
 - Directionally inform CPP development and test different potential program designs
 - Don't represent all options for CPP or program proposals
 - Results: GHG emissions reductions, monetized health benefits due to changes criteria air pollutants, macroeconomic metrics, co-benefits and equity assessment
- Preparing to present final modeling results at RAC 6
 - Working on additional information and materials to supplement results presentation
 - Received feedback and suggestions at Q&A session, written comment, prior meetings
 - Wanted to provide another opportunity for suggestions and reflections

Jamboard Instructions

- RAC members invited to provide comment using interactive online tool – click on link provided in chat
- Use “sticky note” tool by clicking on icon on left-hand side toolbar
- Type your comment in the sticky note
- Do not select “clear frame” button. If you accidentally select it, select the “undo” arrow on the left side of the options bar and it will bring it back.
- Do not move sticky notes as they come onto the Jamboard. KW staff will move the notes around.



Questions and Feedback

1. What, if anything, have you learned from the modeling or found instructive for program development so far?
2. In addition to reviewing modeling results by type (emissions, econ, etc. for all three scenarios) would you also find it helpful to discuss all results by scenario?
3. What additional results information, if available, would be most helpful in program development?
4. Any additional resources you might suggest to supplement the modeling work?

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Demonstration of Compliance (Rules 0500, 0510 and 0590)

- Emissions compliance obligations calculated annually
 - Verified reported emissions that are covered emissions, rounded to the nearest MTCO₂e
 - Each ton met with 1 compliance instrument or 1 community climate investment (CCI) credit
 - Draft rules would refer to any percentage limit on using CCI credits towards compliance
- Three-year compliance period
 - Demonstration of compliance form submitted after each compliance period for the total annual compliance obligations during the period

Period	Compliance Due by September 30 of which Year?
2022-2024	2025
2025-2027	2028
Each subsequent three-year period	Every third year

- Recordkeeping for 7 years
 - Determination of compliance obligation and demonstration of compliance

Trading (Rules 0600, 0610 and 0690)

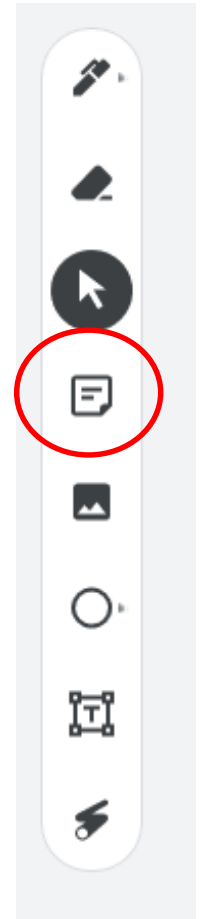
- Compliance instrument trades may only occur between covered fuel suppliers
 - Fraudulent and anti-competitive behavior are prohibited
 - DEQ tracks trades
- Participants must report trades to DEQ
 - Trade forms are signed first by the transferring entity and then by the acquiring entity
 - Forms must include quantity and price (a qualitative description may be used if a price cannot be calculated)
- Recordkeeping for 7 years following a trade

Banking (Rule 0430)

- Covered fuel suppliers may bank compliance instruments indefinitely or until:
 - They are used to demonstrate compliance
 - They are transferred to another covered fuel supplier
 - The covered fuel supplier meets criteria for cessation

Jamboard Instructions

- RAC members invited to provide comment using interactive online tool – click on link provided in chat
- Use “sticky note” tool by clicking on icon on left-hand side toolbar
- Type your comment in the sticky note
- Do not select “clear frame” button. If you accidentally select it, select the “undo” arrow on the left side of the options bar and it will bring it back.
- Do not move sticky notes as they come onto the Jamboard. KW staff will move the notes around.



Questions and Feedback

1. What are your thoughts on the draft rules for demonstration of compliance and use of a three-year compliance period?
2. What are your thoughts on the draft rules for trading compliance instruments, including the process for reporting trades to DEQ?
3. What are your thoughts on the draft rules for banking compliance instruments?

RAC #5 Agenda

Time	Topic
9:00 a.m.	Welcome
9:05 a.m.	Meeting ground rules, procedures for public comment
9:15 a.m.	Remarks by Director Whitman
9:25 a.m.	Review committee work plan and upcoming meetings
9:35 a.m.	Update on related public engagement activities
9:45 a.m.	Review initial draft rule language
11:30 a.m.	Break
11:45 a.m.	Discuss approaches for determining base emissions cap
12:30 p.m.	Lunch
1:00 p.m.	Public comment period #1
1:20 p.m.	Discussion of covered entities and compliance instrument distribution
2:15 p.m.	Modeling next steps and additional feedback
2:45 p.m.	Break
3:00 p.m.	Review initial draft rule language
4:15 p.m.	Next steps
4:20 p.m.	Public comment period #2
4:30 p.m.	Adjourn meeting

Next Steps: Written Comments

- DEQ accepting written comment on today's discussion items
- Please submit comments by end of day **Jun. 4, 2021** to GHGCR2021@deq.state.or.us
- Next rulemaking advisory committee meeting (#6)
 - **Jun. 17, 2021, 9 a.m. to 4:30 p.m. PT**

RAC Meeting Resources

Sign up for meeting notifications:

https://public.govdelivery.com/accounts/ORDEQ/subscriber/new?topic_id=ORDEQ_655

Rulemaking webpage:

www.oregon.gov/deq/Regulations/rulemaking/Pages/rghgcr2021.aspx

Rulemaking contact:

GHGCR2021@deq.state.or.us

Modeling study webpage:

www.oregon.gov/deq/ghgp/Pages/modelingstudy.aspx

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Public Comment Period

- Public comment period: 4:20 – 4:30 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 by Jun. 4

