

VW Grants 2020 Rulemaking

Summary

Rulemaking Advisory Committee Meeting #2

Tuesday, May 26, 2020, 10 a.m. to Noon
Online Webinar



State of Oregon
Department of
Environmental
Quality

Committee Members in Attendance

Committee Member	Affiliation	Representing
Larry Gesher	Association of General Contractors	Construction Companies
Mike Bezner	Association of Oregon Counties	Oregon Counties
Christine Kendrick	City of Portland	City Regulated by HB 2007
Corky Collier	Columbia Corridor Association	Small Fleets
Michael Graham	Columbia Willamette Clean Cities Coalition	Large Fleets and Alternative Fuels
Tracy Rutten	League of Oregon Cities	Oregon Cities
John Wasitynski	Multnomah County	County Regulated by HB 2007
Mary Peveto	Neighbors for Clean Air	Clean Air Community-Based Organization
Chris Kroeker		
	Northwest Natural Gas	CNG/RNG Vehicles
Rich Angstrom	Oregon Concrete & Aggregate Producers Association	Concrete & Aggregate Business
Morgan Gratz-Weiser	Oregon Environmental Council	Environmental Community-Based Organization
Curtis Cude	Oregon Health Authority	Public Health
Waylon Buchan	Oregon Trucking Association	Private Heavy-Duty Fleets
Greg Alderson	Portland General Electric	
Damon Motz-Storey (alternate for Kelly Campbell)	Physicians for Social Responsibility	Public Health
David Breen	Port of Portland	Intermodal Freight, Ports, and Drayage
Aaron Deas	TriMet	Transit Providers

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DEQ is a leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water.

Committee Members Not in Attendance

Committee Member	Affiliation	Representing
Nate McCoy	National Association of Minority Contractors	Minority Contractors
Huy Ong	Organizing People Activating Leaders (OPAL)	Impacted Communities, Environmental Justice Community-Based Organization
Allen Schaeffer	Diesel Technology Forum	Diesel Equipment and Technology

Jeff Bissonnette	Union of Concerned Scientists	Scientific Community
Tony DeFalco	Verde	Impacted Communities, Environmental Justice Community-Based Organization

Staff Present

Staff Member	Affiliation
Gerik Kransky	DEQ
Morgan Schafer	DEQ
Eric Feeley	DEQ
Michael Orman	DEQ
Emil Hnidey	DEQ
Angela Parker	DEQ
Lynda Viray	DEQ
Rick Reznick	DEQ
Penny Mabie	EnviroIssues
Marilee Jolin	EnviroIssues
Max Farbman	EnviroIssues

Community Members Present

Community Member	Affiliation
M. E. Andre	Not Listed
La Stanja Baker	Toyota
Brian Barnacle	Outthink
Jordan Bice	Oxley and Associates
Jocelyn Blake	Association of Oregon Counties
Scott Bohl	Oregon Department of Education
Dave Bora	Toyota
Veronica Bradley	Airlines for America
Julie Brooks	Orange EV
Lana Butterfield	Not Listed
Barrett Carpenter	Peterson Power
Brandon Crawford	City of Portland
T. J. Crockett	Reynolds School District
Rob Currier	Emerald People's Utility District
Joseph Dean	Ryan
Kyle Diesner	City of Portland
Brock Dittus	Oregon Department of Education
Richard Donovan	OSBA
Kevin Downing	Skookum Environmental Advisors
Nadege Dubuisson	Multnomah County
Edward Dumire	Roush
Sean Edgar	Clean Fleets

Mike Falleroni	Ryan
Charlie Fisher	OSPIRG
Eric Fletcher	Allegiant Air
Ryan Gardner	Tire Disposal and Recycling
Jenna Garmon	Metro
John Gentile	Cascadia Energy Technologies
Cate Hartzell	Not Listed
Colleen Hathaway	David Douglas School District
Steve Hoke	Diesel Emissions Service
Megan Hoye	ZEF Energy
Chelsea Jenkins	Roush
Nate Klauer	Not Listed
Kevin Kramer	Schetky Bus and Van Sales
Lauren Kuenzi	Associated General Contractors
Paula Latasa	Not Listed
Susan Mates	Not Listed
Will Napier	Advanced Global Holdings
Jennifer Olson	Government Relations Strategies
Jamie Pang	Oregon Environmental Council
Karl Pepple	EPA
Josh Proudfoot	Good Company
John Rakowitz	Associated General Contractors
Jason Sekhon	Toyota
Bob Short	Not Listed
Kirk Simrin	JNB Trucking
Grant Stickney	Peterson CAT
John Thornton	CleanFuture
Lucita Valiere	EPA
Paul Vickers	Skookum Environmental Advisors
Carolyn Wesolek	Siltronic
Hannah Wilkinson	Not Listed
Brian Worley	Association of Oregon Counties
Allison Wurtz	KEW Consultants

Meeting Commencement

Gerik Kransky, Oregon Department of Environmental Quality (DEQ) opened the meeting by welcoming the participants and giving an overview of the meeting's purpose. He noted that the committee would be talking about the draft rules for the Volkswagen Environmental Mitigation Grants Program that DEQ is creating with Oregon's remaining Volkswagen Settlement Funds. The Oregon Legislature directed DEQ to create this grant program through HB 2007. Kransky noted that many of the requirements of the grant program are embedded in HB 2007 and the Volkswagen settlement agreement. He stated that DEQ's goal is to create a transparent,

accessible program to reduce diesel emissions in the places in the state where these reductions are most needed.

Facilitator Penny Mabie (EnviroIssues) reminded committee members of the ground rules they agreed upon at their first meeting:

- Listen respectfully
- Speak from interests
- Share airtime
- Participate fully
- Demonstrate curiosity
- Silence noisemakers

Mabie then walked committee members through the meeting's agenda:

- Welcome and Introductions
- Overview of ground rules
- Presentation of draft rules
- Public comment
- Next steps

Draft Rule Review

Kransky began reviewing the draft rules with committee members. He noted that he would walk through a summary of each section of rule language and committee members could refer to their copy of the full draft rules for more details. His goal for this section of the meeting was to explore key issues and questions that committee members raised. He said that he hoped to answer any questions from committee members, but that he may need to delay answers based on the complexity of the question. He also told committee members that they could submit written comments to DEQ through June 2nd, 2020.

Overview (340-255-0010)

Kransky highlighted that the Overview section of the draft rules:

- Establishes the purpose of the new grant program
- Describes the work involved in reducing diesel emissions
- Identifies the sources of funding for the program
- Describes the jurisdiction of the program

Kransky opened the floor for questions or comments from the committee members on this section of the draft rules. There were none.

Definitions (340-255-0020)

Kransky noted that the goal of the Definitions section of the draft rules is to establish shared understanding of the key terms of the grant program. He stated that most of the definitions came directly from Oregon statute or the Volkswagen Environmental Mitigation Trust Settlement. Some of the key terms that are defined in this section include:

- Annual usage requirement
- Model year

- Electric vehicle charging infrastructure
- Small fleets

Kransky opened the floor for questions or comments.

- A committee member noted that the draft rules define a “heavy duty truck” as a truck with a weight greater than 26,000 pounds, but an “eligible large truck” as a truck with a weight greater than 33,000 pounds. He asked why there are two different definitions for large trucks.
 - Kransky explained that the definition for “eligible large truck” comes from the Trust while the definition for “heavy duty truck” comes from Oregon statute. The definition for “eligible large truck” is the definition that will be used for setting reimbursements while the term “heavy duty truck” will be used as a general term to define trucks over 26,000 pounds.
 - Another committee member asked if the multiple definitions are additive or if they will discount each other in places they disagree.
 - Kransky responded that the Oregon Department of Justice has reviewed the language in the draft rules and made sure that it is compliant with statutory requirements and requirements from the Trust and does not contradict itself. He also noted that there is language in the rules that notes that these definitions only apply within this set of rules. Thus, if these terms are defined differently in other Oregon rules, those definitions do not apply here.
- A committee member noted that the term “infrastructure” is defined as “the equipment used to enable the use of electric powered vehicles (for example, an electric vehicle charging station). He asked if hydrogen fuel cell vehicles are considered electric and thus if hydrogen fueling would be covered under this definition.
 - Kransky responded that he thinks the answer is yes. DEQ has not seen a project like that come through the school bus program but he will clarify with Trustees to confirm that it would be eligible.
- A committee member asked if the definition for “Nonroad Diesel Engines” included vehicles that are not primarily intended for use on public highways but can be driven through regular traffic.
 - Kransky clarified that it does. He noted that DEQ can address that for heavy-duty construction equipment and some agricultural equipment. Those will be addressed under the Diesel Emissions Reduction Act (DERA) option of the program.
- A committee member asked if there should be a definition for the phrase “government owned.” He noted that there is a definition for that in DERA and that if applied to this program it could be either broad or narrow.
 - Kransky said DEQ would think about that. He noted that they currently define any publicly owned fleet as a government fleet.
 - Another committee member followed up to ask if tribal governments are considered private or public.
 - Kransky responded that he thinks there are separate reimbursement amounts for tribal governments provided by the Trust and a separate tribal allocation under DERA. He said that his initial sense is that they would be eligible but that is a question DEQ should answer in the definition for “public ownership” or “government.”

Definition of Small Fleet (340-255-0020(45))

Kransky noted that DEQ’s draft rules suggest a new definition for “small fleet” to respond to legislative intent of giving preference for funding to small fleets. He noted that this definition states that a “small fleet” is a fleet size of five or fewer non-road, heavy, medium duty diesel vehicles and equipment. He opened the floor

for a discussion on this specific definition because it is a new definition and will impact how preference is awarded in the review period.

Committee members discussed the appropriate size for a “small fleet”

- A committee member asked if the grant program intends to provide enhanced treatment to people that meet this definition. He noted that fleets with five or fewer heavy-duty trucks are exempted in HB 2007. He said that the purpose of the grant program is to provide as much mitigation money as possible to people who are exposed to the legislation. For that reason, he suggested that the definition be changed to refer to fleets with five to ten vehicles since those fleets are not exempted in HB 2007.
 - Another committee member agreed with this suggested change.
 - Kransky thanked the committee members for their suggestion. He noted that the grant program already gives a preference point to people that are exposed to the legislation. This updated definition would give an exposed small fleet an additional preference point.
- A committee member pointed out that there are few trucking companies with five or fewer vehicles that do not also have other pieces of non-road diesel equipment like loaders, excavators, or tractors. He asked how DEQ would respond to a situation like this where the operation was small and had fewer than five on-road vehicles but had multiple pieces of supporting non-road diesel equipment.
 - Kransky noted that the intent of the definition is to be fairly restrictive. He acknowledged the concern of having both non-road and on-road vehicles in the definition and said that DEQ would consider it.
- A committee member asked for clarification on whether an applicant could get multiple preference points based on fleet size, type of equipment, exposure, Disadvantaged Business Enterprise (DBE) status, or other considerations.
 - Kransky confirmed that this was the case.

Committee members discussed the wording of the definition. Several were concerned that the definition was vague.

- A committee member noted that the definition seemed to be limited to non-road vehicles.
 - Kransky noted that it is not intended to be limited to non-road vehicles.
- A committee member noted that including “equipment” in the definition broadens it and contributes to the issue of a small fleet of trucks with multiple supporting pieces of diesel equipment. He suggested that instead DEQ separate the definition into two pieces, one that refers to trucks and the other that refers to equipment
 - Another committee member agreed that the addition of “equipment” makes the definition vague. He said the policy consideration is whether accumulated non-road equipment should affect the classification of the fleet size.
 - Kransky responded that subsection K of HB 2007 exempts fleets with five or fewer heavy-duty trucks. In reading that, he was concerned with the ambiguity of how to treat medium-duty trucks under the same owner. This definition was an attempt to be more explicit and he will adjust it based on the feedback from the committee.
 - The committee member followed up to note that the current definition could provide perverse incentives. For example, you could have a carrier that has five or fewer heavy-duty trucks and so is immune to the mandates of the legislation. But then, if DEQ considers non-road equipment like loaders as part of the fleet size, the fleet could acquire equipment to bring their fleet size within the five to ten item range of the grant definition. This would allow them to avoid the burden of the legislation while also getting additional preference from DEQ.
- A committee member suggested the following re-write of the definition: Small Fleet means fleet size of five or fewer heavy-, medium-duty vehicles and/or non-road equipment.

Projects Eligible for Grant Funding (340-255-0030)

Kransky provided a brief overview of this section of the draft rules noting that it provides a description for project eligibility based on the Trust and DERA. He noted that:

- Only retrofit, repower, and replacement projects of eligible equipment will qualify
- DERA provides broad latitude for what will qualify
- The rules include a requirement to destroy old equipment after a repower or replacement

Kransky opened the floor for questions or comments. There were none.

Eligible Grant Amounts (340-255-0040)

Kransky provided a brief overview of this section of the draft rules noting that it provides a list of the maximum grant amounts based on the owner, equipment, and project types. These amounts are set by the Trust and DERA. They are:

- 100% for public sector projects and exhaust control retrofits
- 75% for all-electric replacements
- 40% for repowers
- 25% for replacements

Kransky opened the floor for questions or comments.

Committee members primarily discussed whether or not DEQ should adjust the maximums of grant awards and their concerns that public sector fleets would receive more of the grant funding.

- A committee member pointed out that the wording of the rule says each grant amount is “up to” a certain percentage. She asked where DEQ will define and clarify when an award would be less than the maximum percentage
 - Kransky responded that later in the rule language, DEQ has retained the option to reduce grant award amounts if the agency announces that reduction in advance of applications. DEQ does not have any criteria written to determine when or why the agency would make that determination. It could happen if the program is oversubscribed. He noted that he thinks it is unlikely that DEQ will reduce the maximum grant awards because, given the impact of COVID-19 on the economy, the agency is likely to maintain maximums to get people excited about the projects.
 - The committee member asked if the decision-making process to reduce grant amount would be at the agency’s discretion or if stakeholders would be consulted.
 - Kransky said it is currently written to be at the discretion of the agency but asked what the committee member would recommend.
 - The committee member recommended an inclusive discussion. She wants to make sure that the agency is taking input that is fair and representative and that it fully understands the implications of its decision. She also noted that the original percentages in the rules were developed to be at the ideal amount to cover enough of the cost of the project to make it very attractive to applicants. For that reason, she is curious what input the agency would need to hear to change those percentages.
 - Kransky noted that the percentages in the rule language match the amounts from the Trust agreement and the DERA program and DEQ does not intend to change that outright. The reason that DEQ would change those amounts would be if the agency determined it could create viable projects while spending fewer public dollars. He said that DEQ wants to

preserve that option. He reiterated that the agency would not give an applicant less than they asked for as that is explicitly forbidden in the draft rules.

- The committee member responded that in a time of constrained funds, she thinks it might make more sense to choose to allocate the funding to the types of projects that are most cost-effective rather than reducing the eligible reimbursement amounts.
- Another committee member agreed. He was worried about delaying discretionary decisions until later when those decisions could be made now. He was also concerned that this could lead to most of the funding going to the public sector and leaving private fleets unable to meet the regulations.
- A committee member wanted to know more about how funding would be dispersed to qualified applicants. He asked if all of the qualified applicants would be entered into a lottery to determine who wins or if there would be another process. He noted that he was concerned with how the agency could spread the money out to make sure it helps the people who need it most. He also wanted to make sure the funding would not only go to public agencies who could exhaust the funding quickly.
 - Kransky responded that private sector fleets would receive preference for the funding.
 - Another committee member was concerned that Section E of the rules have no specific mention of private fleets. He suggested that DEQ either strengthen the language in Section E or address the disparity between the statutory maximums for funding of public versus private projects.
 - A third committee member clarified that public fleets will also be regulated under HB 2007 and that in some cases, the public fleets are small and have small budgets and still need to meet the requirements.
 - A fourth committee member echoed this concern about small public fleets ability to meet the requirements.
 - A fifth committee member noted that the statutory maximums for public and private projects were set based on a specific rationale and she does not think that the agency should adjust those. Instead, she thinks the agency can prioritize where it places the funding. She also wanted to clarify whether school buses are considered public fleets.
 - Kransky confirmed that school buses are considered public and are eligible for public sector reimbursement rates.
- A committee member recommended that DEQ adopt applications in the order they are received. This gives everyone somewhat of an equal opportunity to participate and then grant awards would not be skewed only towards the public sector. This would also generate enthusiasm and encourage people to respond quickly.
- A committee member asked if there are sideboards on how much a project can cost. He also asked how the decision-making body will be equipped to properly vet the applications.
 - Kransky noted that the sideboards are well defined in the rule language. He noted that he thought he was hearing a question of what DEQ would communicate to potential applicants to help them understand their fleet in relation to the grant program. He noted that some of that discussion will occur during the technical assistance conversation.
 - The committee member clarified that he was more concerned about making sure that applications are properly vetted.

Application Requirements (340-255-0050)

Kransky provided a brief overview of this section of the draft rules which lays out the requirements that DEQ has proposed for all eligible projects. The rules require that DEQ announce the availability of grant funding and the deadline for applications. The agency is also required to provide the application form for individuals, corporations, and government entities. The goal of requiring this application information is to:

- Ensure that equipment owners are operating older diesel equipment in Oregon
- Prevent fraud, waste, and abuse by requiring at least three competing bids for proposed projects
- Allow applicants to verify any information related to preference criteria

Kransky noted that DEQ anticipates providing technical assistance to help applicants navigate the questions asked on the application. He then opened the floor for questions or comments.

Committee members discussed whether leased equipment would be eligible for funding.

- A committee member asked if fleets could apply for funding for leased rather than owned equipment.
 - Kransky responded that he thought the answer was no but with the caveat that DEQ does qualify projects in the school bus program that are purchased under a lease-purchase agreement. He stated that if it is a traditional financing tool, then the agency is willing to look at the amount paid up front, the amount financed over time, and the legal obligations in the agreement to determine if the project could be eligible for funding. He noted that DEQ cannot fund most leased equipment because the agency cannot confirm that it will operate in Oregon permanently.
 - Another committee member noted that it is very common for small fleets to obtain their vehicles through a leasing agreement. He thought it would be possible for DEQ to verify that leased equipment is registered and used in Oregon to qualify it for funding.
 - A third committee member agreed that many companies lease equipment and much of the older equipment in the state is leased because it is not used frequently. He pointed out that nothing in the grant rules prevents a leasing company from applying to upgrade its fleet.
- A committee member noted that she did not see leasing as a fit for this program since it is not about buying new equipment but more about scrapping old equipment. She asked Kransky to clarify the applicability of the program to leased equipment.
 - Another committee member noted that he saw the program as applicable when a provider is willing to scrap equipment that a lessee would no longer need after upgrading with funds from the grant.
 - Kransky acknowledged that the spirit of program is met as long as equipment is scrapped and replaced with new equipment that will be operated in Oregon. He noted that he heard a need to include more explicit language about leased equipment in the rules.
 - A third committee member pointed out that DERA has had this issue. The EPA has been fine providing funding as long as the applicant can show that they have a lease-to-own agreement. He thought that if an applicant has a more traditional month-to-month lease, then it should not be a part of the program.
 - The first committee member stated that she understood that leased equipment could meet the spirit of the grant but questioned who would be responsible for oversight. She did not think the agency would have resources for enforcement or tracking.

Committee members discussed the requirement that an applicant provide three competitive bids for proposed projects.

- A committee member stated that three competitive bids seemed excessive for some alternative fuel equipment that has limited suppliers. He asked what would happen if there are not three suppliers available and if this would hinder applications.
 - Kransky responded that the Trust agreement requires that all funded parties comply with Oregon Public Contracting Code ORS 279 A, B, and C to ensure that inflated bids are not funded. The agency has been talking with the Oregon Department of Justice to determine what application requirements would be reasonable for applicants and meet the Trust

requirement. He was not sure that the three-bid minimum could be avoided but took note of the concern.

- A committee member pointed out that one option to mitigate this issue would be to publicly post a request for bids. Then, even if you do not receive three quotes, you can show that you asked for them. He also pointed out that everyone wants to avoid inflated prices but if a price were inflated, it would have a poor return on investment and then likely would not be funded.
 - Another committee member agreed that applicants could document that they asked for three bids, and that could be sufficient even if they do not receive them.
 - A third committee member thought it was important to stick with the contracting requirements to prevent inflated bids. He agreed that if an applicant can prove that three bids are not possible then that should be sufficient.
 - A fourth committee member pointed out that public contracting laws state that if three competitive bids are not available, then the contracting agency can provide fewer as long as they show a written record of trying to obtain the quotes.
- A committee member commented that the three-bid minimum makes sense for replacing a truck, but not for a retrofit or repower. He pointed out that each vehicle and its technology is unique and an applicant may have to go back to the original engine manufacturer (OEM) for an upgrade, meaning the applicant could not get three bids. He asked that DEQ include some flexibility for this rule.
 - Another committee member also noted that the three-bid minimum makes sense because in California, there were issues of inflated cost. However, he asked if Oregon has a critical mass of third-party vendors for retrofit or repowers to make this viable. He also noted that many of his members have discounts and warranties with their OEMs and would want to go back to that company.
 - A third committee member noted that the EPA addresses this concern by allowing an applicant to work with a provider who has not provided the lowest cost bid if they have a good justification.
 - A fourth committee member agreed that it would be good to have that flexibility in the program.
 - Kransky stated that the agency has tried to accommodate that. The rules say applicants can provide low-cost or best value rationale for their choice.
- Kransky summarized the conversation saying that he had heard concerns with the three-bid minimum because there may not be enough providers to obtain three bids or because an applicant may need to do a retrofit or repower with the OEM. Despite that, he noted that the requirement still stands, but the agency is committed to making the program accessible to applicants while preventing fraud, waste, and abuse.

Committee members discussed the location of equipment usage

- A committee member noted that equipment is often used in different places, some of which might be near vulnerable populations. He asked if primary work location should be part of the application.
 - Kransky replied that under Section 7, applicants will need to provide information about their work location. That is something that would be clarified in the application form.
- In response to a mention that the Trust requires vehicles funded to be used in Oregon, a committee member commented that he thought it was unrealistic to assume that replaced trucks would not be used in multiple states. He noted as an example that in the Portland Metro Area, many vehicles are used in both Oregon and Washington.

Committee members made the following miscellaneous comments

- A committee member asked if DEQ would come up with a specific form or guidance document for applications.
 - Kransky responded that applicants must use an application form developed and provided by DEQ. The agency will also provide support materials for applicants to use to help guide their applications.
- A committee member asked whether this section of the rule should specifically call out the annual usage requirements rather than referring to OAR 340-255-0030.
- Graham noted that there is a heavy incentivization towards electric technology in the rules. He pointed out that heavy-duty trucks will not have access to bids for the next year or so and that there are limited providers. He asked for clarification on what the application period would be.

Application Review Process (340-255-0060)

Kransky provided a brief overview of this section of the draft rules noting that it establishes the criteria for awarding preference points to projects. He explained that it is primarily drawn from HB 2007 with two additional criteria. These criteria are:

- Giving preference to projects that reduce diesel emissions in heavily polluted areas with vulnerable populations
- Giving preference to projects that reduce the most tons of diesel emissions per dollar

Kransky noted that the preference points from all criteria will be weighted equally. He then opened the floor for questions or comments.

- A committee member asked how cost effectiveness and the reduction of diesel emissions in areas of the state with high emissions and vulnerable populations will be calculated and where that information would be provided. She also asked whether the applicant would be required to gather that data and provide it to the agency as a part of the application or if the agency would gather the information.
 - Another committee member echoed these questions.
 - Kransky responded that cost effectiveness would be measured against the other applications in any given applicant pool. There would be no cut-off of cost-effectiveness after which a project would not be funded, but instead projects that are more cost-effective will get preference over projects that are less cost-effective. He noted that the same would be true for the criteria related to reducing emissions in areas with high emissions and vulnerable populations but with more flexibility. DEQ is trying to create a publicly available resource that would show diesel emissions across the state overlaid with percentage of vulnerable populations. Projects taking place in areas where emissions are high and the percentage of vulnerable populations is high would receive preference.
- A committee member stated that she thinks a more holistic discussion of how these criteria will be used would be helpful. She asked for more transparency over how DEQ would make funding decisions if many applicants fit all the criteria.
- A committee member pointed out that section E of this rule refers to owners or operators of one heavy-duty truck in Multnomah, Clackamas, or Washington County. She asked for clarification on whether this refers to a person who only owns one vehicle or if it also applies to a larger fleet where only one vehicle is in one of those counties.
 - Kransky clarified that this language is directly from HB 2007 and he believes it is intended to refer to only an owner or operator with one vehicle registered in one of these counties.
- A committee member pointed out that state DERA can partner with tribes using state VW funds. Tribes cannot use tribal money on state funded DERA projects. State DERA funds and tribal DERA

funds must be kept separate and cannot mingle. He asked that the agency consider how best to include this into draft rules.

- A committee member noted that during the crafting of the legislation, they made a concerted effort not to give priority to some preference points over others.
 - Kransky confirmed that this is how DEQ is looking at the preference points.
- A committee member stated his concern that the statutory requirement and weak language in Section E skews the program towards the public sector. He thought it should be more even-handed. He suggested that DEQ either make the statutory maximums for public and private sectors the same or strengthen the language in Section E. He noted specifically that medium-duty vehicles are left out of Section E but will be regulated by the legislation. He pointed out that the legislative intent was to shepherd some money to the private sector and wants to make sure the rules do this.
- Kransky acknowledged this point about the balance of funding public and private projects. In response to the concern on medium-duty vehicles, Kransky noted that if an applicant would face regulation from HB 2007 for a project with medium-duty vehicles, they would receive preference for that under Subsection 60 (2A).

Grant Application Schedules and Grant Awards (340-255-0070)

Kransky provided a brief overview of this section of the draft rules noting that it governs DEQ's notice to the public, the application schedules, and the notice to applicants. This is meant to ensure that funds are spent in a timely fashion. DEQ will announce funding availability in the first quarter of each year. DEQ anticipates the need for multiple funding rounds in a year to meet the goal of spending 20% of the funding per year. This is especially true because of the economic impacts of COVID-19. Kransky opened the floor for questions or comments.

- A committee member asked if there is any mechanism to re-evaluate mid-stream to determine whether or not the process has barriers or externalities. For example, could the agency re-evaluate the goal of spending 20% of the funding every year in the second or third year to see if it needs to be adjusted to fit the practicalities of the market. She noted that the worst-case scenario is that the funding is undersubscribed and asked if there are mechanisms to alleviate that issue before it is too late.
 - Kransky responded that DEQ can re-evaluate the target of spending 20% of the funding each year. He stated that doing so would likely involve a committee process. He noted that the agency is potentially opening four rounds of funding per year to ensure that the funding is not undersubscribed.
- A committee member asked what the opportunities for engagement and feedback will be once the process is underway and outreach materials are being put together. She wanted to make sure that the outreach materials have info about what the different options are for different vehicles to make sure that candidates can understand what they might be eligible for.

Kransky stated that he would like to discuss this further during the next meeting which will be about technical assistance and outreach and recruitment. He noted that this will drive a lot of the success for the program and DEQ wants to get the word out as broadly and clearly as possible.

Public Comment Period

Penny Mabie opened the floor for public comments.

A member of the public provided the following comments:

- I have worked with many fleets that use long-term leases. I encourage DEQ not to limit this grant program just to owned equipment. I have experience working with other programs that have controls to make sure that equipment is used in the appropriate location and am happy to talk with DEQ staff more on how to do that.

Another member of the public provided the following comments:

- Is there a maximum dollar amount for project funding and when is the application timeline? This information is helpful because businesses needed to outlay capital funding ahead of time for planning purposes.

Preview Next Meeting Topics and Next Steps

Kransky gave committee members a preview of the topics for the next committee meeting:

- Review and discuss final rule language
- Discuss implementation plans for the grant program including:
 - Best practices from other states
 - Reducing diesel emissions among vulnerable populations
 - Recruiting minority, women, disadvantaged and emerging small businesses into the program
 - Technical assistance

A committee member requested that at the next meeting the committee also be given the chance to review guidelines on what staff would be reviewing grant application and determine whether it would just be DEQ staff or if there would also be individuals with environmental justice backgrounds on the review panel.

Kransky thanked the committee and reminded them that DEQ would accept further written comments on the draft rules through June 2nd.