

Technical Workshop: Impacted Communities

Considerations for promoting effective participation of impacted communities in program design and identifying potential costs and benefits of program on impacted communities

Meeting Date: Sept. 17, 2020

Workshop attendance

Participants interested in engaging in a technical discussion of program design elements, mechanisms, options and implications to cap and reduce greenhouse gas emissions within the Oregon Environmental Quality Commission's existing legal authority are encouraged to attend. Workshop participants are encouraged to provide input and ideas, be constructive and creative, and to work toward solutions.

Please note that program design decisions will not be made during workshops. The EQC will make decisions when it meets to consider the proposed rules.

Those seeking to participate in broader conversations about DEQ's efforts to cap and reduce greenhouse gas emissions and to provide more general comments may want to attend the public meetings to be held this October in a town hall format.

Background

On March 10, 2020, Gov. Kate Brown signed Executive Order 20-04, directing state agencies to take actions to reduce greenhouse gas emissions and respond to climate change in agency planning. The order contains several directives for the EQC and DEQ to take action consistent with existing legal authority to reduce emissions toward meeting the science-based reduction goals separately established in the order. One of the specific directives is for the EQC and DEQ to cap and reduce emissions from large stationary sources, transportation fuels, and liquid and gaseous fuels.

Those sources of emissions do not constitute all statewide sources of greenhouse gas emissions. The cap and reduce programs will support reducing emissions from some of the most significant sources in Oregon, but it is only one element of multiple reinforcing policies and actions across state agencies that will be necessary to achieve statewide reduction goals. Actions in other programs may reduce compliance obligations for regulated entities under cap and reduce programs.

This workshop is part of DEQ's effort to meet this directive. Prior to opening a formal rulemaking, DEQ will host a series of topic-specific workshops and public meetings to receive input and help inform the program design.

Workshop topic introduction

The Impacted Communities workshop is intended as an opportunity for participants to discuss the ways in which DEQ's cap and reduce program could present opportunities



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and challenges for impacted communities. This could occur both in-terms of potential program design and also the rule development process. DEQ would like to have a discussion around the different communities that may be disproportionately impacted by climate change and by the proposed emissions reduction program and how these impacts might differ. This Issue Brief is meant to set the stage for this discussion within the context of the EQC and DEQ development of a program to cap and reduce greenhouse gas emissions in Oregon.

Impacted communities is without an official definition in Oregon and therefore can refer to a variety of underrepresented, marginalized and vulnerable communities. The term can refer to underrepresented populations, rural communities, and Oregonians who may disproportionately experience the impacts of climate change or a program to cap and reduce greenhouse gas emissions. Impacted communities also means environmental justice communities, communities of color, low-income communities, and Tribal and indigenous communities. There are ongoing efforts in Oregon aimed at identifying and defining impacted communities, as well as frontline communities, meaning those experiencing the first and worst impacts of climate change. The Oregon Health Authority's Climate & Health Vulnerability Assessment is focused on identifying social determinants of health and environmental justice to inform climate change planning. Additionally, the interagency-developed Oregon Climate Change Adaptation Framework is currently being updated, and is working to identify impacted communities, as well.

The U.S. Environmental Protection Agency defines environmental justice as the “the fair treatment and meaningful involvement of all people regardless of race, color, national origin or income with respect to development, implementation, and enforcement of environmental laws, regulations and policies.”¹ Embedded in the definition are two key elements: fair treatment and meaningful involvement, both focus areas of this issue brief and associated workshop.

As a natural resource agency in the State of Oregon, DEQ is also required to incorporate certain Environmental Justice principles in the course of agency work, specifically ORS 182.545 (1)-(3) notes that:

“In order to provide greater public participation and to ensure that all persons affected by decisions of the natural resource agencies have a voice in those decisions, each natural resource agency shall:

(1) In making a determination whether and how to act, consider the effects of the action on environmental justice issues.

(2) Hold hearings at times and in locations that are convenient for people in the communities that will be affected by the decisions stemming from the hearings.

(3) Engage in public outreach activities in the communities that will be affected by decisions of the agency.”

As the state's leader in restoring, maintaining and enhancing the quality of Oregon's air, land and water, DEQ recognizes the value of these activities. DEQ and the EQC understand the importance of creating policy development processes that both allow for meaningful engagement and provide for proposed rules that provide fair treatment. DEQ has been and will continue to solicit input explicitly from impacted communities throughout the program development process. It has been a priority of the agency to

¹ <http://www.epa.gov/compliance/environmentaljustice/index.html>

provide early and meaningful engagement opportunities for communities disproportionately impacted by climate change. As a way to involve these voices in the program development process, DEQ is conducting this workshop to learn what is of interest and how to best address their needs in the program design.

Public engagement

Environmental justice communities provide critical input in the development of a program to cap and reduce greenhouse gas emissions in Oregon. Throughout program development, DEQ engaged these organizations regularly to create a meaningful stakeholder engagement process. To date, DEQ has held conversations with the Oregon Environmental Justice Task Force, as well as community and organizational leaders working towards environmental justice and the protection of impacted communities. In the coming months, DEQ will continue broad outreach, including but not limited to, participation in the Interagency Working Group on Impacted Communities led by the Governor's Office to ensure environmental justice principles are fully incorporated into the scoping and program development and community leaders representing environmental justice and impacted communities are part of the decision-making process.

DEQ is sensitive to the limited availability and resources of those representing impacted communities, and their challenges to engage in multiple state agency processes on similar topics. DEQ will be conscious of such competing requests and endeavor to coordinate requests for involvement across various state processes.

DEQ understands and appreciates the value of providing funding to support the participation and engagement of underrepresented communities. To that end, DEQ is preparing to issue a Request for Proposals to fund Community-Based Organizations to build capacity in their communities to engage in the cap and reduce policy development process. This is consistent with guidance from the Oregon Environmental Justice Task Force to state agencies on ensuring meaningful involvement of environmental justice communities. DEQ sees this effort as complementing but not supplanting the agency's own responsibilities to provide ample opportunities for public participation in the process.

In October 2020, DEQ will host a series of virtual town hall meetings, designed specifically as an opportunity to engage directly with impacted communities. DEQ is seeking input during the impacted communities technical workshop on the design, substance and outreach of these town hall meetings.

Participation in rulemaking

The EQC is a rulemaking body that adopts proposed rules into administrative law. DEQ is responsible for preparing proposed rules for EQC consideration. DEQ develops proposed rules and conducts a rulemaking process that adheres to the public process requirements established in the Oregon Administrative Procedures Act. DEQ's rulemaking process generally includes at a minimum a rulemaking advisory committee appointed by the EQC to provide input on proposed policy and fiscal impacts, notice of proposed rules and impacts, opportunity for public comment, and action by EQC to consider and possibly approve new or altered rules proposed by DEQ.

DEQ's rulemaking process can be thought of in four stages:

1. Pre-rulemaking scoping and stakeholder engagement
2. Rulemaking Advisory Committee meeting(s) and deliberations
3. Issuance of draft rules for public comment
4. Proposed rules delivered to the EQC for consideration

Each stage presents varying opportunities for stakeholders and the public to engage. DEQ considers these technical workshops and the town meetings mentioned in the previous sections as pre-rulemaking scoping activities.

The future rulemaking advisory committee for developing and proposing rules to create a program to cap and reduce greenhouse gas emissions must have adequate representation from environmental justice and impacted communities to ensure proposed rules are appropriately reflect communities' needs and concerns.

At the upcoming EQC Meeting on September 17-18, DEQ is proposing that the department and commission use an application process to identify members of the advisory committee. In order to inform the application process, the department will recommend that the advisory committee represents the following perspectives:

Perspective	Committee seats
Tribal interests	2
Large stationary sources	2-3
Natural gas suppliers	2
Non-natural gas liquid/gaseous fuels	1
Transportation fuel suppliers	2-3
Environmental justice communities	2-3
Environmental organizations	2
General business organizations	2
Local governments	2
Public health	2

Final decisions about the makeup of the advisory committee and specific appointees are expected to be made by the EQC.

While Rulemaking Advisory Committees are primarily designed to facilitate advisory committee deliberations they are also an opportunity for the public to engage in the rulemaking process. These opportunities include learning about policy options being proposed by the department, tracking the often iterative policy development process and providing testimony to the department and advisory committee. DEQ is seeking input on strategies and techniques the department should implement to ensure advisory committee meetings are accessible and present opportunities to elevate the voices, concerns and proposals of environmental justice and impacted communities. It is critical that these communities have opportunities to engage *throughout* the process and not merely at the final public comment period stage.

Climate impacts and greenhouse gas policy

The effects of climate change are expected to disproportionately impact communities of color, low-income communities and rural communities. For example, people of color and low-income people are less likely to have access to modes of transportation necessary to reach safe ground in the event of a natural disaster. They are also more likely to be exposed to the health risks posed by climate change and less likely to have health insurance to deal with the consequences. In rural Oregon communities, homes and jobs are at risk from increasing numbers and intensities of wildfire. Impacted communities are also less able to avoid or otherwise cope with periods of smoke and its associated public health concerns. DEQ is taking action on climate change and its costly effects by working to develop this program to cap and reduce greenhouse gas emissions. DEQ is seeking input during the impacted communities technical workshop on the climate change challenges these communities are facing and the role climate policy can play to best address those challenges.

Emissions reduction policies also have the potential for disproportionate costs to impacted communities. An emissions cap and reduce program will need to address the fact that lower income households spend a higher portion of their income on transportation, heating, and other energy costs, all of which are major sources of emissions. Relatedly, rural households and industries may have fewer low-carbon alternatives available to them for certain tasks, making it difficult to avoid paying increased energy costs resulting from programs that incentivize emissions reductions through economic means. As DEQ develops new programs and expands others to reduce greenhouse gas emissions, the agency seeks input and engagement from impacted communities on strategies to mitigate both the disproportionate impacts of climate change and the cost of emissions reduction policies.

Although environmental programs are often designed to address one pollutant, or source of pollution, lower-income communities and communities of color, have long experienced the cumulative effects of all sources of pollution. Additionally, historic land-use and other planning decisions exacerbate and concentrate those impacts in certain parts of the state. DEQ will consider the air quality impacts when designing greenhouse gas regulations for the sources that may be located in or directly impacting these areas of the state. The department seeks input on key air quality issues of concerns and policy options that both reduce greenhouse gas emissions and co-pollutants.

DEQ is thinking creatively to identify approaches to reduce or avoid impacts to vulnerable communities, options to improve the resilience of impacted communities to program impacts, and opportunities to benefit impacted communities. It will be important to hear external input and learn directly from these communities, the public and stakeholders on how to best inform the program design when it comes to considering impacted communities.

Workshop format

DEQ will largely structure the workshop on impacted communities based on the headers denoted above. DEQ and workshop participants will discuss how to best include the voices of impacted communities in the program development process, identify impacts of climate change and the program on these communities, and collaborate for solutions. The agenda for this workshop will have a set time to discuss each issue, as identified by DEQ. These workshops are not creating a program, but will introduce key issues for

discussion and help inform DEQ's future rulemaking and program design. DEQ encourages conversations around the table and across sectors during the workshops.

Key workshop discussion topics

- Who should be considered as an environmental justice and impacted community in this policy context? What existing work or resources should DEQ consider when identifying environmental justice and impacted communities?
- How can DEQ provide equitable opportunities for participation by environmental justice and impacted communities during this scoping phase? Specifically, how should DEQ promote and design the virtual town halls in October to provide an inclusive meeting?
- What concerns, suggestions or input do you have on perspectives needing representation on the rulemaking advisory committee?
- What techniques or strategies should DEQ use to maximize participation from environmental justice and impacted communities during the rulemaking? This include advisory committee meetings, public hearings and the public comment period on draft rules.
- What tools, resources or approaches should DEQ use when communicating policy options and associated implications to environmental justice and impacted communities?
- What are the most pressing climate change challenges facing environmental justice and impacted communities? How can climate policy, like cap and reduce, best address those challenges?
- How might environmental justice and impacted communities benefit from a cap and reduce program? How might they be burdened?
- What concerns do environmental justice and impacted communities have in relation to costs of climate policy? What considerations are there or program design features to mitigate those impacts?

Related topics

A well-functioning and coherent cap and reduce program or programs will include many carefully considered and integrated elements. These choices depend on related policy or real world considerations. Rather than discuss all choices simultaneously, DEQ will host topic-specific technical workshops to address program design options. DEQ acknowledges there is crossover among design elements and workshop topics, but will focus this workshop's conversation on the topic at hand as described above. Below is a list of related topics for subsequent technical workshops and some key ways in which these topics relate to impacted communities:

- **Program scope:** Sources of greenhouse gas emissions and associated hazardous air quality pollutants may be located in or near impacted communities.
- **Program stringency:** The stringency of the caps can have a direct impact on costs of complying with the program, which may be passed on to and be over burdensome for impacted communities.
- **Alternative compliance options:** The use of alternative compliance instruments may allow sources of emissions directly regulated under the program to reduce emissions less on site than they would without the ability to use alternative compliance instruments.

- **Distribution of compliance instruments:** Distribution of compliance instruments to regulated entities can have a direct impact on the ability to continue to emit. Sources of greenhouse gas emissions and associated hazardous air quality pollutants may be located in or near impacted communities.
- **Cost containment:** Mitigating or removing economic burden to impacted communities due to costs associated with program compliance is an important program design consideration.

Additional opportunities to engage

Prior to opening a formal rulemaking, DEQ will host topic-specific workshops for in-depth technical discussions and town hall-style public meetings for broader conversations and public comment.

For more information on how to engage in the conversation, please visit DEQ's webpage: www.oregon.gov/deq/ghgp/Pages/capandreduce.aspx.

Alternative formats

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.state.or.us.