

Technical Workshop: Alternative Compliance Options

Potential use of alternative compliance options in a greenhouse gas cap and reduce program

Meeting Date: Sept. 2, 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 greenhouse gas 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 emissions. The cap and reduce program 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 emissions reduction goals. Actions in other programs may reduce compliance obligations for regulated entities under a cap and reduce program.

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

Alternative compliance options allow regulated entities to comply with a greenhouse gas emissions cap by acquiring emissions reductions outside of the scope of the capped sectors to reduce emissions at a lower cost than the regulated entity could in their own operations. This can result in the same overall reduction of societal emissions at a lower



State of Oregon
Department of
Environmental
Quality

Office of
Greenhouse Gas
Programs
700 NE Multnomah St.
Suite 600
Portland, OR 97232
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800-452-4011
Fax: 503-229-6124

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overall cost. DEQ is exploring actions and projects that may be considered as alternative compliance options able to generate alternative compliance instruments for use in the program. Examples of greenhouse gas emissions reduction projects that could qualify as options that create alternative compliance instruments for use in the program include actions in the agricultural or forestry sectors and the destruction of ozone depleting substances with high global warming potential. These examples are likely to be outside the scope of the program's direct regulation, but still have available actions that can reduce greenhouse gas emissions, and therefore these emissions reductions may be allowable under the program toward meeting compliance obligations. DEQ would also like to explore other creative ideas that include alternative compliance options that may promote emissions reductions in impacted communities or possibly in regulated sectors.

Certain types of alternative compliance instruments are currently used in several cap and trade programs in other jurisdictions. These instruments serve to reduce overall compliance costs and support emissions reductions outside of the capped sectors. There are existing protocols associated with these programs that establish criteria and standards to ensure that alternative compliance instruments are durable, verifiable and are in addition to established baselines. An important part of the cap and reduce program design will be to establish whether to allow the use of alternative compliance instruments, and if so, which protocols or conditions to award instruments, an appropriate limit on their use for compliance, and the method of quality control and tracking.

Connection to program stringency

The opportunity to use alternative compliance options for regulatory compliance is connected to the overall cap on emissions and the rate of cap decline. There is likely a need to limit the ability to use alternative compliance options, as these alternatives are outside the scope of direct regulation. Decisions about setting the emissions cap levels relate to alternative compliance options since the availability of such options should influence a program's overall cap and rate of decline. The cap and the decline should be established with an understanding of the available alternative compliance options that an entity may use to demonstrate compliance. For example, quickly declining caps with few alternative compliances options could result in an expensive and economically-disruptive program. On the other hand, a modest decline in the caps coupled with a wide variety of readily available alternative compliance options could mean little incentive to reduce emissions within the covered sectors.

The more alternative compliance options outside of the capped sectors are allowed, the less incentive there may be for regulated entities to find emissions reductions in their own operations through efficiencies or new technologies. On the other hand, more restrictions on the usage of alternative compliance options might frustrate the most cost-effective opportunities and undermine the flexibility offered by alternative compliance options. The reduced cost of compliance can give regulated entities time to find long-term emissions reduction opportunities in their own operations. Alternative compliance options can also have environmental and economic co-benefits through improvements in local water, land, and air quality and investments in local communities.

Determining projects that qualify

A starting point for determining the role of alternative compliance options is to determine what kinds of projects will qualify as alternative compliance options and could create



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alternative compliance instruments. These include, but are not limited to, agricultural projects such as land use and livestock management, forestry practices, methane capture, and treatment of ozone depleting substances. DEQ is also exploring concepts that could leverage alternative compliance options that promote emissions reductions in impacted communities. DEQ will have to determine which projects may qualify, if there are type or geographic limitations, what quality control protocols are used, and how to manage the use of alternative compliance options.

An additional area of consideration is the use and oversight of early action credits as another alternative compliance option. These could be investments made prior to the start of the cap and reduce obligations that successfully reduced emissions. This option allows for recognition that early projects supported the overall reduction of emissions and ensures that voluntary reduction receive some credit. This would also help to create an initial supply of alternative compliance instruments for use in the cap and reduce program. However, there are also design challenges such as determining a period within which such projects qualify and accounting for the integrity of emissions reductions given that accounting and monitoring may not have been regulated at the time.

Limitations on use

There could be strict or more inclusive limits on the types and locations of projects and activities that qualify as alternative compliance options. These limits could narrow or broaden the range of alternative compliance opportunities. An understanding of the amount of available qualifying projects should inform these types of limitations, as that will determine the quantity of potential alternative compliance instruments. The quantity available will in turn affect the costs of the overall program and potentially the overall emissions reduction ambition of the program. A strict limitation might result in a limited number of alternative compliance instruments, which may not provide much flexibility or cost mitigation. In comparison, a more expansive inclusion could create more flexibility and could achieve greater overall emissions reductions, but may result in less incentive for reductions directly from sources regulated within the program scope.

One option could be to place a limit on the percentage of alternative compliance instruments that a regulated entity is allowed to use toward a compliance obligation. As stated above, this limit will be informed by the goal of sending the right balance of incentives to regulated emitting entities, while at the same time creating compliance flexibility. This limit on the use of alternative compliance instruments is connected to the overall stringency of the cap and the slope of decline. Conservative or liberal use of alternative compliance instruments could be a sizable consideration when determining what kind of cap decline is reasonable and achievable.

DEQ is aware of concern that allowing alternative compliance options could potentially result in fewer reductions of emissions at specific sources directly covered under the program, which might limit some of the local community benefits, especially for impacted communities. Greenhouse gas emissions are a global challenge, but the processes and activities resulting in those emissions often also emit toxic air contaminants, posing local and regional health risks. Reducing greenhouse gas emissions from transportation fuel uses and industrial process can also lead to reductions in health-hazardous co-pollutants. This can bring both local health benefits to our communities, and global benefits to our environment. Certain communities have long experienced local, direct impacts from these sources of pollution and systemic neglect when it comes to the need to improve local air quality. An important consideration will be how to limit the usage of



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Issue Brief

or type of alternative compliance options in order to avoid delaying air quality improvements for impacted communities.

Integrity of an alternative compliance instrument

Maintaining the integrity of alternative compliance instruments is essential to ensuring that emissions reductions outside of the capped sectors are real and do not undermine overall emissions reduction goals. Criteria can be established for projects to qualify as alternative compliance options. Those criteria should ensure that allowable alternative compliance instruments represent emissions reductions that are:

- *Real*: Emissions reductions are actual reductions from a credible baseline and not theoretical nor cause leakage that results in no new emissions reductions
- *Measurable*: Emissions reductions must be quantifiable and accurately measured or estimated
- *Additional*: Emissions reductions must be in addition to what would have occurred compared to business as usual or as otherwise required by existing laws or regulations
- *Permanent*: Emissions reductions must be long-term in nature or include contractual replacement in case of natural reversal
- *Monitored*: Each project must have accurate ongoing monitoring and data collection
- *Independently verifiable*: Third-party verification of calculations, monitoring, and reporting

Alternative compliance instruments and offsets are already an established component of many domestic and international emissions reduction programs. The cap and trade programs in California and Quebec and 10 states in the Northeast are market-based emissions reduction programs that allow for offsets as a cost containment tool. In addition, Oregon's own Carbon Dioxide Standard allows for the use of offsets as a way for new electricity generating facilities to show compliance.

As a result, there are existing third-party protocols that create the criteria for alternative compliance instrument integrity and provide an Oregon market with a transparent and standardized way for participants to confidently buy and sell alternative compliance instruments that qualify for compliance. DEQ will either have to develop its own set of integrity criteria and oversight means, identify an appropriate existing entity and protocols to rely on to support the integrity mechanism, or establish some combination of the two.

Workshop format

DEQ will largely structure the workshop on alternative compliance options based on the sub-topics denoted above. To begin, participants may discuss what type of emissions reduction projects could qualify as an alternative compliance option. DEQ would like to explore creative ideas for defining an alternative compliance option and the pros and cons associated with particular types of projects. Further, participants can discuss potential limitations on allowable alternative compliance options and the criteria DEQ can use as quality control. 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



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Key workshop discussion topics

- Should the program allow for alternative ways of complying with caps beyond DEQ-issued permits?
- Should alternative compliance options be allowed based on emissions reductions in unregulated sectors, early action, both, or other options?
- What considerations are there for limiting the type and geographic location of alternative compliance options, such as limitations on use of projects outside Oregon?
- How and when should alternative compliance options be allowed?
- What considerations are there for limiting how much a regulated entity can use alternative compliance instruments for compliance?
- Should DEQ adopt the use of an existing third-party protocol that establishes quality control criteria for alternative compliance options? Should DEQ create its own criteria? What are the implications for long-term consistency if DEQ were to alter protocols after the start of the program?

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 alternative compliance instruments:

- Program scope: Will inform what is considered outside the scope of program regulation and therefore may be considered for an alternative compliance option.
- Program stringency: The overall cap on emissions should be informed by the amount of alternative compliance instruments from outside the capped sectors, which can be used for compliance.
- Distribution of compliance instruments: Allowable and available levels of alternative compliance instruments may inform the total number of compliance instruments that DEQ may distribute directly to regulated entities at no cost.
- Cost effectiveness: Creating more flexibility and multiple options for pathways to compliance will help contain the costs of the program.
- Impacted communities: The use of alternative compliance instruments may allow existing polluters to reduce emissions less on site than they would without the ability to use alternative compliance instruments.

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: <https://www.oregon.gov/deq/ghgp/Pages/ghg-cap-and-reduce.aspx>.



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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.