

Technical Workshop 3: Alternative Compliance Options

Meeting Summary

Sept. 2, 2020, 9 a.m. to 12:30 p.m.

Zoom webinar

I. Meeting in brief

The Oregon Department of Environmental (DEQ) hosted the third of six virtual technical workshops on September 2, 2020 as part of the public engagement process for a program to cap and reduce greenhouse gas (GHG) emissions in Oregon. The purpose of the technical workshops is to introduce and frame key policy constructs and issues prior to beginning formal rulemaking. The third workshop was focused on alternative compliance instruments, specifically considerations for compliance and options to provide credit for reducing emissions that are not directly covered by a cap and reduce regulation, or other regulation.

The meeting was held from 9:00 am to 12:30 pm and included a combination of presentations from DEQ regarding program scope and opportunities for participants ask questions and provide comment. Agenda topics included:

- An opportunity for those who could not attend the entire meeting to provide comment
- Considerations for allowable alternative compliance options
- Considerations for limiting usage of alternative compliance options
- Considerations for existing registries versus DEQ-specific tools
- Emerging issues and remaining questions
- Adjourn meeting

All meeting materials and the presentation are posted on DEQ's website:

<https://www.oregon.gov/deq/ghgp/Pages/capandreduce.aspx>

II. Introduction

Sylvia Ciborowski, Kearns & West, opened the meeting by welcoming participants and reviewing webinar logistics. She then invited Colin McConnaha, DEQ, to introduce the DEQ staff leading the development of the program.

Lauren Slawsky, DEQ, then explained that the Executive Order (EO) 20-04, signed by Governor Kate Brown, directs state agencies to develop a suite of new programs to address climate change. DEQ is working to implement directives from the EO, including capping and reducing GHG emissions from key sectors. Specifically, DEQ is charged with taking actions necessary to cap and reduce GHG emissions consistent with science-based emissions reduction



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water.*

goals from sectors including large stationary sources, transportation fuels, including gasoline and diesel, and all other liquid and gaseous fuels including natural gas.

Lauren then shared additional details about the pre-rulemaking public engagement opportunities, including technical workshops that will take place in August and September and Town Halls that will take place in October. In addition to those formal opportunities for comment, DEQ is accepting written comments and conducting focused stakeholder meetings to address specific issues of interest and briefing organizations, as requested.

Next, Sylvia discussed the purpose and goals of the technical workshops. Specifically, DEQ hopes these workshops will be a place to discuss program design features and identify areas for attention during the rulemaking. DEQ is looking to gather input and establish a common understanding of priority issues, legal constraints, potential policy mechanisms, and implications.

Sylvia then reviewed the workshop agenda and laid out meeting ground rules designed to allow for open and respectful dialogue.

Finally, Lauren Slawsky, DEQ, provided a brief overview to frame the conversation around allowable alternative compliance options that could be considered under the program. Lauren noted that alternative compliance options are projects and activities that reduce or remove GHG emissions, generally those outside the program's scope. The workshop will be focused on whether/how to allow use of alternative compliance options to broaden and add flexibility in a cap and reduce program(s).

III. Early input

Sylvia Ciborowski, Kearns & West, invited anyone who would not be able to stay for the duration of the meeting to provide early comment.

No attendees provided comment.

IV. Considerations allowable alternative compliance options

Lauren Slawsky, DEQ, gave a brief presentation, beginning with laying out both benefits and concerns of implementing alternative compliance options. These included the following:

Benefits

- Allow compliance flexibility for finding the most cost-effective opportunities.
- Reduced cost of compliance can give regulated entities time to find long-term emissions reduction opportunities in their own operations.
- Can have environmental and economic co-benefits through:
 - Improvements in local water, land, and air quality
 - Investments in local communities

Concerns

- Administrative complexities.
 - Definition of alternatives
 - Risk of double counting
- May discourage reductions in covered sectors and defer co-benefits (such as air quality improvements) for some impacted communities.
- Accuracy and integrity of emissions reductions accounting.

Lauren continued by explaining that if DEQ was to pursue alternative compliance options, they would need to determine what might qualify. For example, if only activities outside the program scope would be included and if there would be an early action credit. Lauren reviewed the types of activities that might qualify, including:

- Agricultural projects
- Forestry practices
- Methane capture
- Reduced methane leakage
- Destruction of ozone depleting substances

Lauren concluded by stating that the integrity of emissions reductions matter. The reductions must be real, measurable, additional, permanent, monitored, and verifiable.

To help guide conversation, Sylvia Ciborowski provided the following discussion questions to the group:

- Should the program allow for alternative ways of complying with cap(s) beyond DEQ-issued instruments?
- Should alternative compliance options be allowed based on emissions reductions in unregulated sectors, early action, both, or other options?
- If early action investments are allowed, what considerations are there? Are there concerns for double counting?
- What other considerations are there for integrity criteria?

Meeting attendees provided the following comments and questions:

- An attendee from an environmental organization stated their support for alternative compliance options and noted that there are many third-party standards that could be used to help form the program.
- Another attendee noted that reducing emissions is not enough and that GHG in the atmosphere also needs to be captured. They stated that as there are no funds in the system to allow investments in mitigation activities, there will need to be some mechanism within the program that will allow for these type of investments.
- An attendee asked why forestry and agriculture would be considered as offsets and are not already regulated under the executive order.

- Lauren Slawsky, DEQ, responded, stating that the EQC does not have authority to regulate biogenic emissions but might be able to leverage them as alternatives. Additionally, Colin McConnaha, DEQ, noted that agriculture and forestry are addressed in the executive order, just not directly under the jurisdiction of DEQ.
- An attendee stated that DEQ will need to make a strong case why offsets would be included in program design, as they represent a form of leakage.
- An attendee representing an environmental organization said direct emissions reductions and out-of-scope sequestration projects must happen simultaneously, rather than using one to create offset credits for the other. They also emphasized the need for recognition of the importance of the impacts on neighboring communities and the burden and bureaucracy of implementing a program like this. It is not clear what the supply of such offsets would be, or the economics of the regulated sectors.
 - An attendee from another environmental organization agreed that the program should prioritize direct emissions reductions but suggested that alternative compliance options could be an effective tool for reducing emission in certain circumstances, but only if they reduce anthropogenic emissions in Oregon.
 - Another attendee from an environmental organization stated that offsets are real reductions and that if the goal is fighting climate change, a reduction is a reduction.
- Another attendee, representing a large fuel supplier, noted that offsets are needed to meet the benchmarks of the Paris Climate Agreement.
- An attendee representing the agriculture industry stated that agriculture is an important part of the solution to the problem of climate change, but that in practice, agricultural offsets can be cost prohibitive, protocols are limited, and demonstrating compliance often places too high a burden on farmers.
 - Another attendee representing a different agricultural organization agreed with this statement, citing challenges posed by measurability, additionality, and permanence requirements. They also noted that these criteria are especially difficult to meet for family-owned, small and mid-sized farms.
- Multiple attendees noted that impacted communities need to be prioritized when considering offsets that would reduce emissions.
- An attendee representing an environmental organization suggested that there needs to be a full life cycle assessment, especially considering wood products, to avoid leakage.
- Another attendee representing regulated entities stated that the regulated community has made significant investments in technology and approaches to reduce GHG. Alternative compliance options will be important to provide time to achieve further reductions. The sector supports them and would want to see flexibility to use them.
 - Multiple other attendees from both environmental organizations and industry, supported allowing for flexibility.
- An attendee representing electric utilities asked how this might apply to the electric sector and wondered about the benefits to unregulated sectors under this program.
 - Colin McConnaha, DEQ, responded, stating that that is still to be determined. If the electricity sector is covered by the program, alternative compliance options would be

available only for out of scope emissions, which would limit how electricity could be covered by alternative compliance options.

- An attendee from a regulated entity stated that even with all the reductions available to them, they cannot meet the requirements. Alternatives would be helpful. They also asked if there will be room to make adjustments after the rule is written, in case unavailable or unfeasible alternatives come up later.
- An attendee representing an environmental justice organization stated that there are ways to support these projects without harming other communities who live near entities who should be reducing their direct emissions. Offsets can pit communities near stationary sources against communities benefitting from offset projects. If offsets move forward, they should be allowed in Oregon only and include strong restrictions that protect communities. Their organization does not see offsets as a tool for social justice and has concerns with allowing them into the program.
- Another attendee stated that they would like to see direct reduction, but there may be some industries that cannot reduce their direct emissions beyond a certain point and stay in business, in which case alternative compliance options would be necessary.
- An attendee noted that it is crucial for these conversations to focus on the question of additionality. The attendee commented that the rule may be written in a way that may restrict the ability to generate alternative compliance instruments for projects that do achieve additionality, and allow the ability to generate compliance instruments for projects that do not truly achieve additionality, resulting in a trade-off of false positives and negatives.
- An attendee representing the agriculture industry stated that agriculture projects are crucial. Some of the issues of scale, permanence, and verifiability previously raised about agriculture projects can be addressed by allowing mechanisms for aggregation.
- An attendee from a large fuel supplier noted that there are many cost abatement resources available today, so DEQ should use existing material. DEQ should consider states and provinces that have deployed industry standard cap and trade markets and look at price points that try to bring in offsets and how they deal with leakage.
- An attendee representing a large natural gas supplier stated that offsets are a critical part of compliance. The attendee stated that the regulated entity, the utility, has very little control over how customers will use its products. The connection between the need for offsets and the stringency of the program itself is vital. The stricter the baseline and the reductions required, the greater need for offsets.
 - An attendee from another large natural gas supplier agreed, stating that they serve predominately rural and lower income communities and that it will be essential that offsets are allowed for compliance.
- Another attendee representing a large fuel supplier said that there are many lessons learned and best practices when it comes to offsets. It's a big umbrella with many different types of offsets. What needs to be discussed is how many offsets could be eligible as part of this program, which depends on the sectors the program will regulate.
- An attendee from an environmental justice organization stated that the climate crisis is worsening, which may mean that industry has to make sacrifices, since the community have been making sacrifices for a long time.

- An attendee representing the industrial sector responded, noting that this is a global issue. Industries within Oregon are fewer and farther between. Creating an economic disadvantage for those industries can further harm impacted communities due to economic impacts.

V. Considerations for limiting usage of alternative compliance options

Lauren Slawsky, DEQ, introduced the next discussion topic, beginning by discussing the connections between alternative compliance options and other program topics, specifically program stringency and impacted communities. These included the following:

Key connections to program stringency

- Initial cap and decline over time may be set with an understanding of the available (or lack of) alternative compliance options
- Quickly declining caps with few alternatives could result in an expensive and economically-disruptive program
- Modest decline in caps with a wide variety of readily available alternatives could result in little incentive to reduce emissions within the covered sectors

Key connections to impacted communities

- Certain communities have experienced systemic neglect to environmental improvement, and are experiencing some of the first and worst impacts of the changing climate
- Reducing GHGs can also reduce health-hazardous co-pollutants
- Ability to use alternative compliance instruments may allow existing emission sources to reduce emissions less on site than they would have had to otherwise
- Some sources of emissions are located in or near these impacted communities

Lauren then discussed the considerations for limiting the usage of alternative compliance options, such as the desire to reduce emissions within the capped sectors.

To help guide conversation, Sylvia Ciborowski provided the following discussion questions to the group:

- What considerations are there for limiting how much a regulated entity can use alternative compliance instruments?
- What considerations are there for impacted communities in limiting usage of alternative compliance instruments?
- What considerations are there for limiting the type and geographic location of alternative compliance options, such as limitations on use of projects outside Oregon?

Meeting attendees provided the following comments and questions:

- An attendee reflected on how past efforts over the last 15 years have been delayed. They hoped to seek other flexibility options that could be designed into the program that would not slow down the rate of emissions decline.
- An attendee representing a large natural gas supplier stated that alternative compliance options should meet the criteria put forth by DEQ and avoid double counting. They also noted it is important to remember that cap and reduce will be different than cap and trade. Alternative compliance options are meant to provide flexibility to mitigate costs to overall program. The cheapest and most efficient way to build out the offset market is to link with bigger markets.
- An attendee representing stationary sources stated that climate change is an international challenge. If an alternative compliance option is verifiable, whether it comes from Oregon or another state makes no difference. In terms of percent obligation that can be met with alternative compliance options, sources should utilize as much as they are able to obtain from verifiable sources.
 - An attendee from an environmental organization noted that there is importance in imposing some usage limit, although they did not have an exact answer. Although it is tempting to look at California’s initial limit of 8%, differences in Oregon’s program may make this baseline too strict.
- Another attendee representing an environmental organization discussed considerations for limiting use of alternative compliance options for large stationary sources to ensure that direct emissions reductions will benefit impacted communities. However, in terms of decentralized emissions from vehicles, it is possible to achieve objectives by letting some fuel suppliers receive emission reductions credits through projects that reduce emissions in impacted communities.
 - Multiple attendees reiterated the need to focus on impacted communities when considering alternative compliance options.
- An attendee expressed concern that the permanence required of alternative compliance options may tie the hands of future programs, as new reduction or sequestration strategies become available.
- Multiple attendees noted that when addressing climate change, Oregon is not working in a vacuum. It is a global issue and solutions should keep that in mind.
- Another attendee stated that the biggest thing is that the context for an offsets discussion today is hugely different than 10 or 20 years ago. If the world becomes serious about limiting warming to two degrees or less, there won’t be as many offsets available. Therefore, it should not be considered in isolation, since credits now might be required anyway five years from now.
- An attendee from an environmental origination said that we all need to do our share to address climate change. They said it was important to move toward a new economy that addresses frontline communities. They recommended looking at offsets as a last resort, and focusing on onsite reductions, climate, and getting solutions from frontline communities.
- Attendees also noted that the term “impacted communities” needs to be better defined.

VI. Considerations for existing registries versus DEQ-specific protocols

Next, Lauren Slawsky, DEQ, introduced the topic of considerations for existing registries versus potential DEQ-specific protocols. She explained that there are existing third-party protocols and registries that create criteria for integrity. Those can provide an established way for participants to buy and sell qualifying alternative compliance instruments, with already visible prices and availability. DEQ will have to:

1. Identify an appropriate existing entity and protocols to rely on to support integrity;
2. Develop its own set of integrity criteria and oversight means; or
3. Some combination of the above

To help guide conversation, Sylvia Ciborowski provided the following discussion questions to the group:

- 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?

Meeting attendees provided the following comments and questions:

- An attendee stated that there is little need for DEQ to reinvent registries and protocols. Instead DEQ should rely on scientific literature and launch a series of consultations with private industry to review their protocols, lessons learned, and successes to inform DEQ's direction.
 - Another attendee agreed, saying that there are numerous examples across the world and there is no need to create Oregon-specific protocols from scratch.
- Another attendee stated that there needs to be a discussion about the costs of running such a program. They felt that emitters should provide the administrative costs, rather than taxpayers.
- An attendee representing an environmental justice organization noted that they understand the resource constraints and practicality of creating an Oregon-specific protocol but would like to see an audit of existing protocols from an environmental justice lens before making a determination on approach.
- An attendee from an environmental organization suggested that if offsets were used, they should be treated as a privilege that regulated entities could stand to lose due to labor/wage issues, air quality permit violations, or other criteria.
- Many attendees reinforced the idea that DEQ does not need to reinvent the wheel and should take advantage of existing rigorous programs. Some attendees suggested DEQ place additional, Oregon-specific criteria to existing protocols to encourage focus on particular areas.

VII. Emerging issues and remaining questions

Sylvia Ciborowski invited attendees to bring up and remaining questions or comments they wanted to address or expand on any emerging issues that came up previously during the workshop.

To help guide conversation, Sylvia provided the following discussion questions to the group:

- What issues have been raised that should have continued discussions?
- What issues relating to this workshop topic were not raised that should be discussed?
- What issues remain or need further discussion that should be brought up during the rulemaking?

Meeting attendees provided the following comments:

- An attendee suggested that if the state restricts offsets to Oregon, it could result in other jurisdictions excluding Oregon from benefiting from offsets elsewhere. They felt it is not necessarily beneficial to Oregon to limit these kinds of programs in state. The ultimate goal is to reduce GHG on a global scale.
- Another attendee stated that early action credits was mentioned briefly and it warranted further consideration to assess topics such as how to evaluate early action and how credit would be awarded.
- An attendee noted it is a challenge to understand the technology that may be available to potentially regulated entities and their ability to use less expensive offsets.
 - Another attendee responded to this, stating that it would be useful for each sector to put forward a justification for why offsets are necessary and how it could help meet a particular trajectory of reductions over time.
- An attendee representing a large fuel supplier stated that program stringency and alternative compliance options go hand in hand. They added that there needs to be a clear compliance pathway for large obligated entities and a realistic assessment of compliance stringency versus supply of alternative credits.

Colin McConnaha thanked participants for their comments and shared closing comments. Colin invited entities to reach out if they were interested in DEQ participating in a meeting at their own forums and encouraged anyone with additional thoughts to submit comments to DEQ in writing.

VIII. Meeting wrap up and next steps

Sylvia Ciborowski, Kearns & West, reminded attendees of the upcoming technical workshops and encouraged anyone with additional comments or questions to submit them directly to DEQ. She encouraged attendees to sign up for email updates to receive notice of upcoming meetings and materials posted to the website.

Meeting adjourned at 12:30 pm PT.