

Technical Workshop 1: Program Scope

Meeting Summary

Aug. 18, 2020, 9 a.m. to 1:30 p.m.
Zoom webinar

I. Meeting in brief

The Oregon Department of Environmental (DEQ) hosted the first of six virtual technical workshops on August 19, 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 first workshop was focused on program scope, specifically the sectors, sources, and types of emissions to be covered by the program.

The meeting was held from 9:00 am to 1:30 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 Greenhouse Gases for Inclusion
- Sectors and Sources Overview
- Considerations for Fuel Suppliers
- Considerations for Large Stationary Sources
- Considerations for Electricity Sector
- Considerations for Natural Gas Sector
- 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 Director Richard Whitman, DEQ, to offer opening remarks.

Director Whitman provided an overview of Governor Brown's charge to DEQ, which is to establish a cap and reduce program by 2022. He acknowledged the immense challenges facing the public, private, and nonprofit sectors and thanked participants for taking the time to help



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develop the program. He expressed his hope that this would be a safe venue for anyone to share their thoughts and desire to surface issues at the beginning of the process. Finally, Director Whitman noted the parallel work to reduce GHG emissions in process around the state and asked that participants pay attention to those efforts as well and participate as appropriate.

Next, Colin McConnaha, DEQ, introduced the DEQ program staff and said he hoped that the technical workshops would be an opportunity for interested parties to provide input and feedback, and engage in constructive discussion.

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 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.

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

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.

Two meeting attendees provided the following comments:

- An attendee noted an interest in discussing the program timing as part of the workshop topics. They proposed that emission reductions should be frontloaded.
- A second attendee, representing tribal interests, noted their appreciation for DEQ's work. They shared historical context that for thousands of generations, people cared for the land and maintained a zero-emission economy, but land and air quality have deteriorated over the past several hundred years. They encouraged a focus on meeting science-based reduction targets to support healthier communities, reduce disparities, and protect wildlife. The program should incentivize investments and early reductions, cover all

stationary sources of emissions possible without exemptions, and prioritize the needs of impacted communities. Additionally, there must be demographic diversity and input from organized labor. The attendee noted that they will be working with tribes in Oregon to gather input on ways to reduce pollution and build equitable outcomes.

IV. Considerations for greenhouse gases for inclusion

Lauren Slawsky, DEQ, provided a brief presentation about which greenhouse gases should be considered for inclusion under the program. Lauren reviewed the current sources of emissions in Oregon and noted that the focus of the program will be on anthropomorphic sources of emissions and that the EQC does not have the authority to regulate emissions from biomass or biometric sources. Examples of sources that DEQ could include are gasoline and diesel combustion, cement manufacturing, pulp and paper mills, gas stoves, and gas-fired furnaces.

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

- Which GHGs might be regulated? Why?
- Should fluorinated gases relating to industrial processes be regulated at large stationary sources? Why or why not?
- Should biogenic CO₂ emissions be considered for regulation? Why or why not?

Meeting attendees provided the following comments and questions:

- An attendee representing natural gas utilities noted that in DEQ's presentation, natural gas is listed as 12% of emissions produced in Oregon in 2017 and asked how that was broken out.
 - Lauren responded that the chart also includes natural gas usage across other sectors and that the 12% figure includes natural gas fired electricity.
- Another attendee reflected on the opportunity presented by the cap and reduce program and hoped to find science-based solutions to reduce GHGs. They stated that, legally, any gas that contributes to anthropogenic global warming such as CO₂, should be included in the program and that the only way to rapidly reduce GHGs is to regulate all of them. The program should also address environmental justice and achieve family wage jobs through renewable energy, rather than focusing on individual impacts to certain industries.
- Another attendee agreed on focusing on all GHGs and that the program needs to consider the full life cycle assessment of GHGs.
- An attendee from the manufacturing sector stated that they were ready to support DEQ's mission and wondered whether there are ways for the agency's current control measures to capture GHGs of concern.
- An attendee representing natural gas utilities suggested the state should focus on mechanisms it can use to reduce emissions in Oregon, since they cannot regulate or control upstream or out-of-state emissions.
- Another attendee encouraged DEQ to focus on the 92% of emissions from CO₂ and methane, based on cost and practicality.

- An attendee representing a large fuel supplier stated that to include something in the scope, DEQ should be able quantify it with a reasonable degree of accuracy.
 - A second attendee noted that the issue of quantification has been well resolved.
 - The original attendee stated that they did not disagree but that it can become more difficult in areas such as agricultural emissions.

V. Sectors and sources discussion

Lauren Slawsky, DEQ, introduced the next discussion topic that focused on which sectors and sources should be covered under the program. Lauren briefly walked through a slide and explained that there are different ways to think about sectors and sources and provided examples of sectors and sources that could be under consideration, including:

- Fuel suppliers
- Natural gas
- Large stationary sources
- Electricity
- Other (e.g., wastewater, compost, agriculture, etc.)

VI. Considerations for fuel suppliers

Next, Lauren Slawsky, DEQ, introduced the topic of considerations for fuel suppliers. She explained that Oregon imports all non-natural gas fuels used in the state and that those importers vary in size, fuel types, and annual volumes imported. That annual market variability must be considered for program scope and design. Lauren also noted that the thresholds for inclusion directly connect to leakage risk, including emissions and business to other jurisdictions as well as within Oregon for entities supplying fuels to keep them just below the threshold. She finished by stating that cap and reduce may have compliance obligations based on fuels delivered (e.g., for all gasoline supplied in Oregon), fuel usage (e.g., transportation), or a combination.

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

- Which fuels and activities result in emissions that should be regulated? Why?
- What tradeoffs are important when establishing emissions thresholds for inclusions?
- Which entities should be responsible for which sources of emissions and therefore might be covered? Why?
- Are there fuel types and/or fuel uses that should be considered for exemption?
- What Clean Fuels Program Considerations are there?

Meeting attendees provided the following comments and questions:

- An attendee representing a large fuel supplier asked how other programs, such as the Clean Fuels Program, will impact the cap and reduce program.
 - Lauren said that DEQ is in the process of hiring a contractor to look at programmatic options and evaluate how additional policy efforts will interact.

- An attendee from an environmental organization stated that providing an overall cap on emissions across the economy could create a level playing field for incentives and ensure overall reduction targets are met.
- An attendee representing an environmental organization stated that they favored a low threshold in the fuel sector. Also, they appreciated Director Whitman noting that it will take a lot of different tools to reach the reduction goals and that clean fuels are one of those tools.
- An attendee representing a local public entity encouraged DEQ to consider synchronizing efforts with the aviation sector and its target to reduce emissions by 50%. They also asked DEQ to consider federal regulations under the Clean Air Act.
- Another attendee stated that the threshold should be as low as possible. They also asked for detail about the breakout of transportation fuel use.
 - Colin McConnaha, DEQ, answered, stating that while the inventory does include this information, because the data is reported fairly high up the fuel supplier chain, the end use can only be estimated.
- An attendee representing the propane industry noted that about 30% of propane is used for residential purposes, specifically heat and cooking. The industry is concerned about cost increases, since they are not regulated as a utility. Most customers are based in rural Oregon and in similar programs prices have increased by 10 to 15 cents. Regarding thresholds, the industry has concern if it would be much under 25,000 metric tons, especially in terms of potential implications to small businesses.
 - Colin asked for more information about the cost increase.
 - The attendee said that generally a gallon of propane could increase from about \$2.00 to \$2.10 or \$2.15 and that it takes about 300-400 gallons a year to heat a home.
- Another attendee, representing a large fuel supplier, noted that recent U.S. Energy Information Administration data would show about 22% of diesel is for non-road use in Oregon (2018). They also commented that it would simplify the cap and reduce program to keep the minimum threshold point aligned with the Clean Fuels Program (5,000 metric tons). In terms of regulating by end usage, noted that this would be more feasible for some fuel types than others.
- An attendee stated that most emissions are locked in when capital equipment, such as gas furnaces, are purchased and wondered if DEQ has the authority to regulate equipment that contributes to GHG emissions.
- Another attendee noted that DEQ needs to consider leakage into Oregon from California. They hoped to come up with creative solutions for small businesses to minimize the regulatory burden.
- An attendee representing a large fuel supplier asked if the state has a strategy around new or cleaner fuels like hydrogen.
 - Colin responded, stating that there is not a specific strategy for hydrogen and that the most direct program DEQ has in place to encourage hydrogen would be the Clean Fuels Program that awards credits.
- One attendee who represents a large fuel supplier asked for clarification on the earlier comment that the state could not regulate biomass or biometric sources.

- Colin stated that there is a restriction on EQC to regulate biomass any further than what is required by the Clean Air Act. Any cap and reduce program that the state adopts would likely not be able to cover those sources.
- The attendee noted that as discussions move forward, they will need clarity on applications to ethanol, biodiesel, and those specific fuels. Additionally, they wanted to discuss marine/aviation fuels, since those fuels are combusted beyond the state.

VII. Considerations for large stationary sources

Lauren Slawsky, DEQ, introduced the topic of considerations for large stationary sources. She began by explaining that a stationary source is considered to be a permitted air contamination source, such as industrial stationary sources, power plants, and landfills that produce emissions from activities such as on-site fuel combustion and industrial processes. In Oregon, there are over 260 that meet these criteria. Lauren also explained that the threshold for inclusion that is set in rule will determine what is considered a “large” stationary source.

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

- Which fuels and activities result in emissions that should be regulated? Why?
- What tradeoffs are important when establishing emissions thresholds for inclusions?
- Which entities should be responsible for which sources of emissions and therefore might be covered? Why?
- Are there facilities that should be considered for exemption?
- Should natural gas be regulated on-site at the user? Why or why not?

Meeting attendees provided the following comments and questions. Please note that Sylvia also encouraged comments from the large stationary source sector, but these were not offered at this time.

- An attendee representing natural gas utilities suggested that DEQ consider the policies of neighboring jurisdictions, such as California. They suggested setting a threshold of 25,000 metric tons is a good place to start, while also considering natural gas users that might fall under 25,000 metric tons but are not served by utilities.
- Another attendee, a resident of Salem, requested that DEQ regulate the Covanta Marion Facility due to the health and environmental justice impacts on the surrounding communities. They added that regulation should be based on emissions, rather than permit limits.
- An attendee asked for clarification on what DEQ defines as “institutional facilities.”
 - Lauren stated that colleges, universities, and hospitals could be considered institutional facilities if they hold permits to combust on site.
- An attendee representing a large fuel supplier stated that DEQ should get as close to point of combustion as possible. Obligations should be based on meter reads of consumed natural gas.
- An attendee from an environmental organization proposed DEQ should cap and reduce as many sectors and sources as possible to achieve GHG reduction goals, including in-state electricity generation.

- Another attendee from a climate protection organization proposed determining the point of regulation based on where GHG reductions will be maximized. In terms of setting thresholds, they suggested setting out a few principles such as environmental integrity and equity.
- An attendee representing a stationary source suggested that the approach should consider the practical implementation of regulations and where limits will exist. For example, plant managers would prefer having it be consistent and in one location. Additionally, it will be important to reconcile any differences in air quality regulatory tools.
- Another attendee from an organization working with stationary sources reflected that consumer demand results in manufacturing and subsequent GHG emissions. They proposed looking at a global solution by establishing the threshold as high up the food chain as possible, rather than establishing the threshold from the meter.
- An attendee joining by phone said that DEQ should consider science and data to make recommendations and identify which approach will meet GHG reduction goals.
- Another attendee spoke in favor of regulating large industrial emitters for on-site combustion. They said it was possible to recognize efficiencies by moving it upstream and achieve localized and equity benefits by keeping it at the facility level.
- An attendee mentioned that the EO establishes a target of two degrees Celsius increase, however based on recent data DEQ should aim to keep the target below a 1.5 degrees Celsius increase by 2050.
- An attendee representing a large natural gas utility said if DEQ planned to look at natural gas suppliers as the regulation point, they would want to engage very closely with the Oregon Public Utility Commission. They asked if DEQ had started coordinating with the agency and if there was an opportunity for natural gas suppliers to participate.
 - Colin McConnaha said that DEQ has had a variety of discussions with the PUC and expected conversations between the agencies and natural gas suppliers to continue.
- Another attendee advocated for regulating as close to point of use or consumer as possible and setting very strong incentives, whether those are cost increases on the product or rebates to make process changes.
- An attendee asked when talking about “upstream,” if the regulation would be upstream but based on ultimate combustion of the fuel.
 - Colin responded that question posed is whether DEQ should regulate facilities directly or at the supply level.
 - The attendee noted that DEQ needs to do whatever it takes to get emissions down and in general they believed upstream is better.

VIII. Considerations for the electricity sector

Lauren Slawsky, DEQ, introduced the topic of considerations for the electricity sector. She began by explaining that Oregon is a major importer of electricity and that the EQC does not have the authority to regulate out-of-state emissions. Emissions from the in-state generators (natural-gas fired) serving Oregon are greater than 95% and primarily associated with Portland General Electric, so regulation would mainly only impact PGE and their customers. Additionally, there are leakage risks due to how the electric grid operates and current policies in states surrounding Oregon.

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

- In an Oregon-only program, what are the benefits/risks of including in-state generators?
- What is your take on the level of leakage risk in Oregon for the electricity sector?

Meeting attendees provided the following comments and questions:

- Two attendees from environmental organizations supported including in-state generators under the cap. One noted that not regulating the electricity sector would make it more difficult for other sectors to work together to achieve overall reduction. Additionally, the risk of leakage may not be quite as high, and they were interested in the PUC's views on possibilities to prevent leakage.
 - A member of the PUC noted that possibilities to prevent leakage are being discussed internally.
- Another attendee stated that they have concern about leakage in both directions, particularly from outside suppliers into Oregon. Given limitations on DEQ's authority, they said it may be necessary to look for a legislative fix.
- An attendee representing an environmental group said that they believe Oregon could legally regulate imported power.
 - Colin McConnaha, DEQ, asked if they could expand on that point.
 - The attendee said Virginia is an example of a state that is providing in-state utility generation to cover the cost of the emissions and suggested Oregon agencies could coordinate to prevent resource shuffling.
- Another attendee asked if there is any role for transport of pollutants around the state with regard to GHGs.
 - Lauren Slawsky, DEQ, responded that those emissions are dispersed more globally rather than being localized.
- An attendee representing a major electrical utility suggested that the best way forward is to regulate holistically and stated that leakage is a problem and could result in unintended consequences.

Colin McConnaha, DEQ, said he appreciated the conversation and differing opinions offered. He suggested attendees submit written comments to elaborate on mitigation options and legal opinions.

IX. Considerations for the natural gas sector

Lauren Slawsky, DEQ, introduced the topic of considerations for the natural gas sector. She began by explaining that even if on-site natural gas usage were to be regulated at large stationary sources, for remaining gas usage that would be regulated upstream, DEQ will need to determine whether to:

- a) Regulate utilities for sales and transport gas on the local distribution company system; or
- b) Regulate utilities for their sales gas and regulate marketers for the gas they procure that is transported on LDC system.

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

- Which fuels and activities result in emissions that should be regulated? Why?
- What tradeoffs are important when establishing emissions thresholds for inclusions?
- Which entities should be responsible for which sources of emissions and therefore might be covered? Why?
- Should natural gas be regulated entirely at the utility (for transport and sales) or disaggregated to utility and gas marketers on that distribution system? Pros/cons?

Meeting attendees provided the following comments and questions:

- An attendee representing a large fuel supplier believed the point of regulation should be where the meter resides and that concerns with smaller entities could be mitigated with cost rebates.
- Another attendee asked how much of transport gas is going to large industry consumers as opposed to residential and small customers.
 - Lauren answered that transport gas is primarily going to stationary sources.
- An attendee that represents a large natural gas utility said it was important to provide options for cost recovery and some flexibility if they were assigned responsibility for transport customers. They suggested consideration of compliance obligations, such as the Renewable Portfolio Standard.
- Another attendee reviewed the trade-offs of regulating at the point of use and noted the issues of DEQ's practical access, complexity, and the extent of DEQ's regulatory reach. They encouraged consideration of regulations that could successfully affect consumer choice.
 - Colin noted that going as close to the source as possible could be interpreted in two ways: regulating at the utility or the marketer since they are closer to the point of purchase.
 - The attendee responded, stating that there is a choice for the marketer of sourcing the gas, but that this is far less significant than the choice for the end user of buying gas or another lower carbon fuel.
- An attendee representing a large fuel supplier suggested that DEQ may be able to address complexity posed by natural gas marketers by obtaining information about composition of gas through redacted copies of contracts, citing precedence for this practice in compliance with California's program.
- An attendee noted the impact of consumers on GHG emissions and suggested requiring a user to buy a specific number of years of renewable natural gas.
- An attendee that represents a large natural gas utility stated that it is a complex issue. If a utility is held responsible for transport customers, they will not have the ability to reduce emissions since they have no control over composition of gas.
- Another attendee representing natural gas utilities clarified that transport customers are large volume customers. They are mostly industrial, some larger commercial customers, not residential.

- An attendee noted that maybe this is a situation where regulations would apply at both ends of the pipeline, perhaps incentivizing the suppliers in regard to cleaner gas, then incentivizing at the end user/meter with respect to quantity they are consuming.
- An attendee suggested regulated entities need to have flexibility and appropriate tools to comply with obligations.
- Another attendee offered their support for regulating as close to the point of combustion as possible and potentially finding a way to regulate at both ends.
- Two attendees representing different natural gas utilities discussed the complexities involved in using potentially using contracts for compliance and measuring data. Both agreed further discussion on transport customers was needed to determine appropriate point of regulation.
- Another attendee stated that who buys or uses the gas is responsible and it was important to develop alternative ways of influencing behavior.

Colin said he appreciated the conversation around the point of regulation and hoped to gain more information from different entities, such as natural gas suppliers.

X. 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 from an environmental organization thanked DEQ and said they felt it is vital to remember that the main purpose of this effort is to maximize emissions reduction.
- Another attendee emphasized the need for clarity around timing of the program implementation and encouraged DEQ to keep the focus on equity and addressing local impacts.
- An attendee suggested that DEQ should create a parking lot of issues and emissions sources that will not be captured through a cap and reduce program, such as biogenic emissions.
- An attendee representing a natural gas utility stated that it will be important to have breakout discussions to look at intersections between agencies named in the EO like the PUC and the Oregon Global Warming Commission.
- Another attendee suggested holding a break-out session on fuel suppliers to address obligated fuels and point of compliance.

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. He noted that not many have taken DEQ up on this offer to date and he encouraged participants to consider this opportunity.

XI. 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 1:30 pm PT.