

Summary

Rulemaking Advisory Committee Meeting #4

Apr. 22, 2021, 9 a.m. to 4:30 p.m.

Zoom Meeting

List of attendees

Committee Members in Attendance (for all or part of meeting):

- Allie Rosenbluth, Rogue Climate
- Alyn Spector, Cascade Natural Gas
- Amy Schlusser, Green Energy Institute
- Bob Jenks, Citizen's Utility Board
- Brendon Haggerty, Multnomah County Health Department
- Dan Kirschner, Northwest Gas Association
- Don Sampson, Affiliated Tribes of Northwest Indians
- Dylan Kruse, Sustainable Northwest
- Ellen Porter, Roseburg Forest Products
- Erin Hansell-Heideman, Blown Away Ranch
- Haley Case-Scott, Beyond Toxics & NAACP Eugene/Springfield
- Jana Jarvis, Oregon Trucking Association
- Jeff Stone, Association of Nurseries
- John Hillock, Wallowa County
- Kathryn VanNatta, NW Pulp & Paper Association
- Keith Wilson, Titan Freight
- Mark Petrie, Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians
- Martha Moore, EVRAZ
- Mike Freese, Oregon Fuels Association
- Nels Johnson, Northwest Natural
- Oriana Magnera, Verde
- Pam Barrow, Food Northwest
- Paul Snyder, Tillamook Creamery Association
- Peter Brandom, City of Hillsboro
- Ranfis Villatoro, BlueGreen Alliance
- Sharla Moffett, Oregon Business & Industry
- Stan Dean (alternate), Oregon Association of Conservation Districts
- Steve Smith, Phillips 66
- Taren Evans, Coalition of Communities of Color
- Tim Miller, Oregon Business for Climate
- Zach Baker, Climate Solutions

Staff in Attendance (for all or part of meeting):

DEQ

- Matt Davis, Senior Policy Analyst
- Matthew Espie, Climate Policy Analyst
- Colin McConnaha, Manager, Office of GHG Programs



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Quality

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

- Nicole Singh, Senior Climate Policy Advisor
- Lauren Slawsky, Climate Policy Analyst
- Richard Whitman, Director

ICF/Cascadia

- Deb Harris
- Seth Hartley
- Bansari Saha
- Andrea Martin

Kearns & West

- Sylvia Ciborowski, Facilitator
- Kirsten Hauge, Facilitation Team
- Bianca Valdez, Facilitation Team

Summary of Advisory Committee input

The Oregon Department of Environmental Quality (DEQ) thanks the participants in the meeting for their attention throughout the day. The dialogue continues to be constructive and will help DEQ plan for future meetings and develop program recommendations. Overall, members expressed:

- Questions and comments around the potential approach for regulation of stationary sources. Key interests included:
 - Interest and concern how the best available technology would be determined.
 - Suggestions to consider co-pollutants in addition to greenhouse gas emissions and ensure accountability for reducing health impacts.
 - Mixed views, with some support for the best available technology approach, and others expressing concern about issues such as fairness for entities and how it may not result in emissions reduction.
 - The importance of involving workers and impacted communities.
- General support for DEQ to provide resources for a robust engagement process to shape community climate investment (CCI) projects.
- Further interest and ideas about how CCIs could be deployed.
- Comments expressed about the need for DEQ to effectively engage Tribes, community-based organizations, rural communities, and environmental justice/BIPOC communities.
- Questions about the assumptions and modeling results and a request for more information and time to assess the findings.
- A range of suggestions for assumptions to include in a fourth policy scenario.
- Questions about covered entities and compliance instrument distribution for fuel sectors, specifically around how to address variability and entities leaving and entering the market.

Agenda Item: Welcome, meeting ground rules and public comment opportunities

Sylvia Ciborowski, facilitator, opened the fourth rulemaking advisory committee (RAC) meeting and thanked the participants for the RAC's ongoing participation. She then reviewed the agenda, participation tips, and public participation protocols. Additionally, she offered committee discussion guidelines to ensure the RAC operates in a collaborative fashion. Colin McConnaha welcomed and thanked advisory committee members for their continued participation, engagement and commitment to working towards a new rulemaking to

establish Oregon's Climate Protection Program (CPP). He provided brief introductions for the DEQ Office of Greenhouse Gas programs staff and wished attendees a Happy Earth Day.

Agenda Item: Remarks by Director Richard Whitman

DEQ Director Richard Whitman welcomed the RAC and shared his appreciation for the number of participants in the meeting on the 51st Earth Day. He noted Earth Day also marked the birthday of Oregon DEQ. He thanked the RAC for their continued time and attention in providing input for the development of the CPP. He acknowledged the urgency of the work and how staff is working within a compressed timeframe to try and stand up a program in Oregon later this year. The schedule means that DEQ, the RAC, and the public are working through data and information quickly. He shared that the fourth RAC meeting would focus on initial modeling results. To allow additional time to dive deeper into the assumptions and methodology, DEQ was holding a separate meeting focused on modeling in the following week.

He added that there are multiple rulemakings occurring at DEQ related to climate and air quality and also DEQ is in an early stage in implementing their health-based air toxics program, Cleaner Air Oregon. He recognized that large stationary sources are involved in these efforts and DEQ is aware of the ongoing multiple policy making and interplay between the programs, while also seeing opportunities for mutual support. Director Whitman noted issues that the RAC had raised including point of regulation and unique treatment for large manufacturing entities, particularly manufacturers that may be energy intensive and trade exposed. He explained that DEQ is trying to develop the CPP under their existing legislative authorities and that means some things proposed under cap and trade cannot necessarily be achieved in the CPP. He highlighted based on the initial modeling results, DEQ was seeing that Oregon can make significant reductions in its overall greenhouse gas emissions, while also maintaining a healthy economy across the state.

Agenda Item: Review committee work plan and upcoming meetings

Nicole Singh thanked the RAC for their continued attendance and participation and shared the focus of the fourth meeting is the review of the initial modeling results. DEQ hoped to hear initial impressions and reactions from the RAC. Nicole noted that they are at the halfway point in terms of the RAC process. To date, DEQ has shared a lot of information about program design features, point of regulation, thresholds, and new program features, and in turn the RAC provided significant comments for DEQ to consider. She then reviewed the committee work plan updates. Nicole noted the July 8 meeting timeframe had been extended, highlighted topics for the next few meetings and noted that in the May meeting, they will begin discussing draft rules. There were no clarifying questions or comments for this section.

Agenda Item: Regulation of stationary source emissions

Nicole Singh reviewed DEQ's proposed approach on how to regulate stationary source emissions. DEQ has a strong leaning to propose to regulate natural gas combustion emissions at natural gas utilities and they are looking at stationary sources focusing on industrial manufacturing process emissions. This approach would be called best available emissions reduction assessment. Nicole reviewed how the CPP could work for fuel suppliers, natural gas users, and stationary sources. Lauren Slawsky provided further detail about the assessment approach and more context for the process. Details may be found on slides 13-19. Sylvia Ciborowski reviewed the following key discussion questions and opened the meeting for clarifying questions and comments.

- What are your thoughts on regulating stationary source emissions with a site-specific best available emissions reduction approach instead of the use of compliance instruments?

- What do you see as the potential benefits and the challenges to using this approach for stationary sources?
- What might DEQ need to consider when determining whether a source has met best available emissions reduction assessment?
 - What factors should be considered and evaluated as part of the assessment?
- Any other suggestions for how to conduct this assessment?

Questions/Comments

- A RAC member sought clarification on the role of the gas utility for this approach. With the utility serving as the point of regulation, it appeared that DEQ had enforcement capabilities over the utility, but not certain gas end users. They wondered about how the utility could compel its transport customers to comply.

Response: DEQ explained that the leaning was to regulate all-natural gas delivered on utility systems at the utilities. For gas delivered directly from an interstate pipeline to stationary sources, the utility cannot be regulated. The approach discussed for stationary sources would address those that emit more than 25,000 metric tons of emissions including from on-site combustion of gas delivered on an interstate pipeline, industrial processes, and combustion of solid fuels. For all the emissions from combustion of natural gas delivered on a utility's system, DEQ is leaning to all regulate the emissions at those three utilities.

- Another RAC member asked a clarifying question about the role for workers, worker representatives, and unions in this process. Under a best available technology approach, if workers and local training partners are not involved in the process, the potential retrofit work could be allocated to outside contractors.

Response: DEQ thanked the RAC member for the feedback and said they would further consider how to incorporate the workforce and the training needed.

- One RAC member asked if this approach would remove stationary sources from the trading and if some type of cost management or evaluation methodology would be available to ensure stationary sources are being treated equally to the other entities. Another RAC member asked whether some sources would be required to make up any emissions reduction not achieved by stationary sources.

Response: DEQ explained that the approach is treating emissions source by source in a direct regulatory manner, rather than folding them under the cap and allowing market mechanisms like trading to comply. DEQ confirmed that the proposed approach for stationary sources is different from the proposed approach for natural gas utilities and non-natural gas fuel suppliers. However, one group would not be required to make up any emissions reductions not achieved by another type of source.

- A RAC member asked if DEQ had considered the option to require that the emissions from the sources be captured upstream.

Response: DEQ clarified that process emissions only occur at the facility because of the manufacturing processes on-site and there is not a mechanism to regulate upstream as they occur exclusively at those sites.

- Some RAC members are interested in this opportunity if it can help ensure pollutant and co-pollutant reduction while also improving communities' health and quality of life. A RAC member asked what measure of accountability is there in this approach in ensuring emission reductions and improved health impacts for the community are achieved among these sources.

Response: DEQ replied that they were in the process of thinking through what should be included in the assessment and this measure of accountability is a factor that DEQ is thinking about.

- An approach was suggested to keep emission intensive trade exposed (EITEs) entities under the cap but give them longer compliance periods.

Response: DEQ clarified that this approach was not because of trade exposure or these emissions occurring from EITEs, rather the approach is being proposed because of the relatively small and unique processes that generate these emissions. These are unique emissions and these emissions are not regulated at the proposed non natural gas fuel supplier or natural gas utility point of regulations.

Additional key themes of comments included the following:

- Some RAC members shared their support for the best available technology approach.
- Acknowledgment from some members that this is not a new approach and it can potentially work in this situation.
- Concerns regarding the proposed approach included:
 - Different types of entities would be regulated differently.
 - Whether the program would address stationary sources with less than 25,000 metric tons of emissions.
 - Consider risk of potential leakage.
 - Industry groups may not agree with DEQ about the best emission process, which could result in delaying the program and emission reductions.
 - It moves away from sending a market signal and letting markets or business determine the most effective way of reducing emissions, as compared to making CCIs or other investments.
 - If industry waits for the best available technology, total reductions may not occur thus impacting co-benefits, innovation for technological advancement, and labor advancement.
 - The process of determining what is the best available emissions reduction technology and who makes the decision.
 - Need for a fair process for facilities, without penalty for those with limited options.
- Suggestions for this approach included:
 - Set up regulations so the primary driver is best available technology and use CCIs and trading as a backstop to get there.
 - Cover industrial sources under the cap and then require them to apply best available emission reduction strategies to maximize onsite emission reductions. If the sources still have emissions that exceed cap-based limits, DEQ can allow them to invest in community climate investments to achieve offsite reductions.
 - Emission reduction technologies would need to be technically and financially achievable for the source. Cost and benefits would also need to be evaluated.
 - Consider whether certain greenhouse gas emissions are associated with technologies that reduce criteria pollutant emissions.
 - Establish a broad and full sector program that pulls in all sources.
 - Keep emission intensive trade exposed (EITEs) entities under the cap but give them longer compliance periods.
 - Ensure the program and compliance instruments are easy to grasp and understand.
 - Consider options for emissions reductions may be different for facilities in Oregon than in other parts of the country.

Agenda Item: Further considerations for community climate investments

Nicole Singh shared appreciation for the conversation about a CCI approach at the third RAC meeting and provided some clarifications and further thinking on CCIs. Nicole walked through how CCIs could work in practice and next steps. Details may be found on slides 22-23. Sylvia Ciborowski then opened the meeting for questions and comments.

Questions/Comments:

- A few RAC members noted support for natural and working land options and investing in technologies that can facilitate the transition to reducing emissions.
- One RAC member asked why sequestration type projects were not included and suggested that sequestration will be an important long-term tool.

Response: DEQ explained that there has been a lot of interest in other types of projects that resulted in emissions reductions, however, sequestration is also an option. Actual projects will be based on community input.

- Several RAC members expressed the importance of effective engagement to frontline communities as well as providing resources. The process so far has not fully involved Oregon's nine tribes. They said their priority was reducing emissions and investments in rural and indigenous communities.

Response: DEQ expressed appreciation for the comment. DEQ has made efforts to engage with tribes and will follow up with the RAC member for assistance.

- One RAC member asked if there was consideration for resourcing the engagement process and connecting with local community-based organizations in determining local CCI projects.

Response: DEQ noted they are considering the best ways to engage communities. DEQ recognizes the importance of providing resources to organizations to ensure meaningful and consistent engagement.

- A RAC member shared optimism for the potential for immediate and direct health benefits and greater resilience to effects of climate change in the long-term however wondered whether DEQ had a sense of magnitude of resources and scale of CCIs.

Response: DEQ replied that if CCIs prove to be preferred by regulated entities and they opt to choose that type of compliance option more frequently, then investments would be driven through this mechanism. The optionality makes it difficult to provide a specific answer about the degree of magnitude.

- A RAC member noted that based on modeling scenarios, they think rates for natural gas customers will increase and that number is likely to be higher for industrial customers. The member suggested that customers should get some of the benefits of reducing greenhouse gas emissions and DEQ should find projects that bring value and benefit to communities while also achieving carbon reduction benefits.
- A few RAC members agreed that CCIs should be reserved for responsible entities that are making every effort to reduce emissions and are providing direct benefits to the community in a meaningful way. In developing the design of a CCI program, they recommended including a clear mechanism for oversight, such as multiple stakeholders involved in overseeing program implementation. The program should also include an accountability mechanism, be inclusive, promote programs and projects that have community partnerships, and engage community-based organizations and apprenticeship programs.
- Some RAC members offered support to DEQ for leaning towards using the social cost of carbon for the price of CCIs, however a member stated that the social cost of carbon is less than the CCI prices

shown in the third RAC meeting. One noted it would be important to have a balanced use of CCI revenue.

Agenda Item: Public Comment Period

There was a total of 5 comments in the public comment period. Public comments included the following:

- Concern was shared about the regulatory approach for stationary sources. In principle, best available technology to reduce emissions can work, but the value of the approach relies on DEQ's ability to identify and enforce the standards and meet program goals. This approach could potentially delay actions to reduce greenhouse gas emissions.
- Concern that the stationary source approach adds a level of complexity to the program and is not market-based. It is set up such that DEQ would need to judge what constitutes best available technology and requires resources or additional staff. A cap places pressure on industry and incentivizes best available technology.
- Additional concern was expressed about the stationary source regulation approach. The best available technology could be costly and rely on engineers or third-party consultants to evaluate options for individual industries. It would be challenging for DEQ to determine the threshold of cost and figure out the fair cost for these industries.
- The program should reduce emissions from regulated entities, with industrial sources taking most of the responsibility. It may be better to allow industry more flexibility in the beginning while they are working on the modifications and then at a later point require them to reduce emissions.
- There was concern shared about there not being a mechanism for accountability with direct regulation. This concern tied into the use of CCIs which need to benefit areas that are most polluted.

Agenda Item: Modeling: Initial modeling policy scenarios results review and discussion

Lauren Slawsky provided a brief overview of the three initial modeling policy scenarios emissions results. Next, ICF and Cascadia staff members, Deb Harris, Seth Hartley, Bansari Saha, and Andrea Martin introduced themselves. Staff reviewed the policy scenario modeling results for emissions, health, economics, and co-benefits and equity. Nicole Singh noted that DEQ was trying to address modeling from many perspectives and the presentation showed initial reflections. Details may be found on slides 28-69. Sylvia Ciborowski opened the meeting for clarifying questions.

Questions/Comments:

- A RAC member wondered if small businesses were looked at and differentiated in any way in the economic analysis, if ICF could comment on the mid and low scenario differences for the health impacts analysis, and comment on the level of health benefits for the different sectors.

Response: ICF replied that they had not looked at small businesses yet and that both high and low outcomes would be available in a more detailed slide deck posted after the meeting.

- Another RAC member asked how ICF quantified the health impacts of electric generation.

Response: ICF replied that emissions changes associated with switching to electricity was modeled and included in the results. They also looked at associated health impacts. Overall, they saw significant

reductions of greenhouse gas emissions economy-wide and benefits, even though there may be increases in electricity sector emissions due to electrification.

- A RAC member commented that health outcomes have a value, in addition to monetary benefits. The results presented are likely underestimating health benefits because combusting fossil fuels has produces other pollutants that impacts health. This analysis only evaluated particulate matter and its precursors, which is a limited set of health of outcomes. On the qualitative assessment, they noted that increased transit service was included but wondered if it included increased opportunities for biking and walking.

Response: DEQ replied that for the co-benefits and equity analysis, they provided examples of types of CCI projects based on input from environmental justice groups on the types of projects of interest. Additionally, Cascadia shared they considered potential benefits with CCIs and one was with funding for transit expansion and electrification, but it was not specific to infrastructure, bikes, or pedestrian, but it was transitioning away from single occupancy vehicles.

- Another RAC member noted that it appears net jobs were evaluated, but wondered what analysis was conducted on the types of jobs and tasked for an explanation for why the COBRA model was used.

Response: ICF explained they identified sectors where they expect to see jobs gained, such as construction and some manufacturing jobs. ICF also explained that COBRA is built on criteria pollutant emissions and because this is a greenhouse gas emission reduction, they had to calculate corresponding pollutant reductions but that this tool was relevant given the overall scope of the study.

- Another member asked what data and information was used to evaluate impacts to Tribes as a community of concern in the equity and co-benefits analysis.

Response: Cascadia replied that data and information was pulled from reports and publications that are Oregon-specific, reports from data and information from the U.S. Department of Housing and Development, and from previous assessments looking at what impacts carbon policies have on different communities of color.

- One RAC member asked if ICF looked at the long-term costs of moving away from natural gas to electricity.

Response: ICF shared that they looked at the changing costs from natural gas to electricity and did not include the cost associated with electric system upgrades.

- A RAC member asked whether it was possible to understand impacts for communities near specific sources and whether the model could show the impact of funds circulating in Oregon's economy.

Response: ICF shared that results are available at a county level, but the fourth case will include more detailed and better-resolved county-level results. ICF also clarified that the modeling includes a multiplier effect of funds circulating in Oregon's economy. Though it is important to keep in mind that CCI funds are not incorporated in the monetized health or economic modeling.

- A RAC member commented that to the type and extent of regulated sectors, it makes a difference regarding co-benefit analysis and more regulation leads to more benefit. In addition, the member expressed surprise that scenario three had the most ambitious targets and it wasn't delivering the highest health benefits.

Response: ICF explained that the changing fuel supplier exemption helped drive the health impacts in the modeling. In general, the results can be interpreted to show that more regulation is bringing in more benefits in regard to health benefits. From a co-benefits and equity perspective, the higher regulation leads to a speedier transition to lower energy. Another consideration for the co-benefits and equity assessment is the resulting cost increases relating to energy and housing burdens. In these scenarios, compliance instruments such as CCIs and banking could help to address these concerns.

- RAC members expressed concern about using 2010 data to set a program baseline instead of 1990 data.

Response: DEQ clarified that 2010 is the first year potentially covered entities began reporting emissions data to DEQ and it is therefore more reliable data than a reconstructed 1990 baseline.

Agenda Item: Discussion of fourth modeling policy scenario

Nicole Singh introduced the next topic that focused on the fourth modeling policy scenario. Lauren Slawsky reviewed the proposed assumptions for the fourth case and noted that DEQ wants to further explore program options and would likely change a few assumptions to better understand certain drivers of change. Nicole also shared the next steps on modeling. Details are found on slides 71-74. Sylvia Ciborowski then reviewed the key discussion questions and opened the meeting for RAC members to provide their written responses using Jamboard, an online comment tool.

Summary from Jamboard exercise:

- *What are your thoughts on the cap trajectory for policy scenario 4?*
 - Varying thoughts on the trajectory including it appropriately reflects the direction of Executive Order 20-04, it is steep on the front end, or the cap should be higher.
 - Support for an interim goal.
 - Support for the other three scenario trajectories.
- *What are your thoughts on the assumptions on who is regulated/regulated sectors for policy scenario 4?*
 - Scenario should include stationary sources as regulated in the cap program.
 - Emissions from the electric sector should be considered.
 - Support for not including a fuel supplier threshold or having a low threshold.
 - It is important to think of who is making the decision on who is and isn't regulated.
- *How do you feel about the CCI percentage for policy scenario 4?*
 - Varying ideas for what the percentage should be from 5-25% to an unlimited percentage.
 - There is a need to make investments in existing community-based organizations, rural, and Tribal communities.
 - Support to make CCIs broadly available.
 - Consider allowing the price of CCIs to be driven by the market cost rather than social cost.
- *Other comments*
 - More details around the policy scenarios are needed so the RAC can provide better feedback.
 - Suggestion for other policy modeling scenarios, including to model the impact of no banking or trading, or modeling with one main objective in mind.

Agenda Item: Identifying covered entities and compliance instrument distribution for fuel sectors

Matthew Espie introduced the next topic of identifying covered entities and compliance instrument distribution for fuel sectors. Matthew presented non-natural gas fuel supplier considerations and provided an example structure for determining covered fuel suppliers as well as for the compliance instrument distribution. Details may be found on slides 77-82. Sylvia Ciborowski reviewed the following key discussion questions and opened the meeting for discussion and feedback.

- How often should DEQ evaluate who is above the program threshold?
 - How many years of historical emissions data should be used in an evaluation?
 - For how many years or compliance periods should entities be covered based on evaluation of historical emissions data?
- What are the advantages and disadvantages of using an evaluation cycle to determine distribution of compliance instruments?
 - What tradeoffs are important to you when considering using historical or more current emissions data, relative to a compliance period?
 - Should the evaluation cycle align with determination of applicability? Why or why not?
 - Should DEQ establish specific percentages of compliance instruments to distribute to groups of entities? Why or why not?

Questions/Comments:

- A RAC member asked how a new entity that wants to enter the marketplace could receive compliance instruments if everything would be based on existing industries and their past historical compliance.

Response: DEQ explained that because they would be distributing compliance instruments to covered entities, to determine if an entity was covered DEQ would use an analysis of reported data. For example, DEQ could look at three years of emissions data to determine who is above the threshold. Then they would determine who is covered for the subsequent compliance period and would distribute compliance instruments for that period.

- One RAC member asked for explanation on when an entity enters or leaves the market, how it would affect others. They also asked what analysis was done on identifying covered entities and compliance instrument distribution for fuel sectors.

Response: DEQ explained to see how it affects others, they tried to balance certainty vs. using the most recent information. They were considering using shorter horizons and more recent emissions data to try and address this. Regarding analysis, DEQ looked at the number of entities and considered tradeoffs between different approaches but has not mapped out distribution over time. Staff noted they want to provide certainty to covered entities while addressing annual variability in the market.

- There was a suggestion to cover all entities and for DEQ to make it easy for the small producers to comply and provide the data DEQ needs.
- A RAC member noted that there is a lot of variability in the market, so current data will be more important than historical data as far as looking for obligations.
- A RAC member asked if DEQ envisioned the fuels and natural gas distributors all in one market.

Response: DEQ affirmed this approach.

- A RAC member stated that a lower threshold complicates the program for smaller businesses in allowance distribution.

Agenda Item: Next steps

Sylvia provided closing comments, reminding attendees to submit written comments and feedback to DEQ by Apr. 30 and the fifth RAC meeting scheduled for May 25. Colin McConnaha offered his final thoughts on the fourth RAC meeting and thanked RAC members for their comments.

Agenda Item: Public Comment Period

There was one additional comment during this time. The public comment included the following:

- Concern was shared around the exclusion of the electricity sector. Urged DEQ to use census level data to better understand environmental justice impacts. Additionally, there is more than just monetary value associated with avoided healthcare costs.

Meeting adjourned at approximately 4:30 p.m.

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.