

State of Oregon
Department of Environmental Quality

Memorandum

Date: October 6, 2008
To: Environmental Quality Commission
From: Dick Pedersen, Director
Subject: Agenda Item C, Rule Adoption: Greenhouse Gas Reporting, October 23, 2008
EQC Meeting

Why this is Important Global warming poses a serious threat to Oregon’s natural resources, its economy and public health.

The Intergovernmental Panel on Climate Change (IPCC) Fourth Assessment Report (2007) states with “very high confidence” that human activities have led to global warming, which has led to increases in global average air and ocean temperatures, widespread melting of snow and ice, and rising global average sea level. Locally, scientists predict the following impacts to the Pacific Northwest: coastal and river flooding; snow pack declines; lower summer river flows; impacts to farm and forest yields; pressure on fish and wildlife species; and adverse public health effects (“Scientific Consensus Statement on the Likely Impacts of Climate Change on the Pacific Northwest,” Appendix C of the *Oregon Strategy for Greenhouse Gas Reductions*, 2004).

Greenhouse gas reporting regulations are necessary as a first step to gather information about greenhouse gas emissions contributing to climate change and to track, evaluate and develop strategies to achieve state and regional greenhouse gas reduction goals.

Department Recommendation The Department of Environmental Quality recommends that the Environmental Quality Commission adopt the new division of Greenhouse Gas Reporting Rules shown in Attachment A2.

Background and Need for Rulemaking A number of global warming policy actions laid the groundwork for the proposed greenhouse gas GHG reporting rules.

1. Oregon helped form the Western Climate Initiative in 2007. Seven western states and four Canadian provinces currently participate in the WCI. The members have agreed to:
 - Establish an overall regional GHG reduction goal;
 - Create a cap-and-trade program or other market-based multi-sector approach; and
 - Join The Climate Registry to track and manage regional GHG emissions with consistent reporting mechanisms and requirements.

2. Oregon became an inaugural member of The Climate Registry, which now includes forty states, nine Canadian provinces, six Mexican states, and three Tribal Nations. TCR is a nonprofit organization which collects GHG emissions information and develops measurement protocol to support voluntary and mandatory GHG reporting policies for its members and reporters.

3. In 2007, the Oregon Legislature adopted House Bill 3543 that created a Global Warming Commission and the Oregon Climate Change Research Institute, and established Oregon's GHG reduction goals, which include:

- Arrest increasing greenhouse gas emissions by 2010;
- Decrease greenhouse gas emissions by 10 percent below 1990 levels by 2020; and
- Decrease greenhouse gas emissions by 75 percent below 1990 levels by 2050.

WCI partners have also developed a regional goal to reduce greenhouse gases to 15 percent below 2005 levels by 2020. Final WCI cap-and-trade design recommendations were released in September 2008.

In July 2007, Governor Kulongoski sent a letter requesting that the EQC consider adopting GHG reporting rules as soon as possible.

Effect of Rule

The proposed rules would require sources emitting at least 2,500 metric tons of carbon dioxide equivalents per year to register and annually report GHG emissions to DEQ. GHGs include: carbon dioxide; methane; nitrous oxide; sulfur hexafluoride; hydrofluorocarbons; and perfluorocarbons. In order to make meaningful comparisons, all non-CO₂ GHG emissions are converted into carbon dioxide equivalents, a unit of measurement which describes, for a given amount of a greenhouse gas, the amount of carbon dioxide it would take to make the same contribution to global warming.

Beginning in 2010, air quality permitted sources, which include most Title V (major air emitters) and some Air Contaminant Discharge sources (sources which emit less than major amounts), would be required to report their 2009 GHG emissions. Examples of those affected include coal-fired power generators, cement manufacturing, and pulp and paper mills.

Beginning in 2011, reporting would be required for additional sources that are not subject to an air quality permit. This includes some wastewater treatment facilities, landfills, electricity and natural gas distribution lines, and electric generating units. If DEQ determines that adequate reporting protocols (e.g., methodologies for calculating or reporting emissions) are not available for any of these source types, DEQ will exempt them from reporting until protocols are developed.

The proposed rules would require reporting of direct GHG emissions from fuel combustion activities, manufacturing operations or processes, and fugitive emissions.

Reporting of indirect GHG emissions - such as power consumption, employee commuting, or air travel - would not be required. Certain types of direct emissions would also be excluded from reporting, including mobile activities (such as delivery vehicles, forklifts, and fleets) and “categorically insignificant activity.” “Categorically insignificant activity” (OAR 340-200-0020 (19)) includes food services, janitorial and grounds-keeping activity, onsite laundry, recreational and other activities.

In addition to emissions from fossil fuels and other non-renewable sources, reporting would be required for emissions coming from the combustion of biomass (such as wood waste or hog fuel).

Reporting requirements for the proposed rules are found in Attachment A2.

**Commission
Authority**

The EQC has authority to take this action under ORS 468A.050.

**Stakeholder
Involvement**

Several agencies participated in developing the proposed rules with considerable stakeholder involvement. DEQ led the effort with assistance from the Lane Regional Air Protection Agency, the Oregon Department of Energy and the Public Utility Commission.

DEQ formed the Greenhouse Gas Reporting Advisory Committee in fall 2007 to develop a GHG reporting program. The committee was chaired by former EQC chairman, Mark Reeve, and included representatives from various industry sectors, utilities, environmental groups and local government. The GHGRAC’s January 2008 final report contains its recommendations, as shown in Attachment B.

The proposed rules mirror GHGRAC’s recommendations with two exceptions. Due to potential gaps in legal authority, DEQ is not proposing to require reporting of GHG emissions from:

- 1) Power used in Oregon that is generated outside of Oregon; and
- 2) Distribution of fuels used in Oregon that result in GHG emissions when later burned.

DEQ intends to introduce legislation in 2009 requesting authority for the EQC to require reporting for these two emission categories. Additional stakeholder

outreach included presentations at conferences and workshops such as the Northwest Environmental Business Council's "Managing Carbon" workshop, the Oregon State Bar Association, and the National Council for Air and Stream Improvement.

DEQ also provided stakeholders with updates as part of an e-mail service (Climate Change List) and posted public meetings and other relevant information on DEQ's website.

Public Comment The public comment period was from April 1, 2008 to May 16, 2008. Eight public hearings were held from May 1-15, 2008 in Pendleton, Bend, Klamath Falls, Medford, Eugene, Corvallis, and Portland (two hearings). Forty one oral and written comments were received during the public comment period. A summary of comments and DEQ responses are shown in Attachment C and a complete set of comments is provided in Attachment D. Reports from the hearings can be found in Attachment E.

Key Issues **Certain sectors excluded from the proposed rules**

Several commenters expressed concern that the proposed rules do not address transportation, agriculture, forestry, residential and commercial sectors. Based on 2005 (consumption based) GHG emissions inventory data compiled by the Oregon Department of Energy, transportation represents 34 percent of the total statewide GHG emissions in Oregon; while agriculture, forestry, and the residential/commercial sectors combined represent 38 percent. The proposed rules apply only to the industrial and waste sectors, which represents about a quarter of the total statewide GHG emissions.

While DEQ recognizes that transportation, agriculture, forestry, residential and commercial sectors should be included in the statewide GHG emissions inventory to provide a complete picture of Oregon's total carbon emissions, DEQ recommends excluding them from this initial GHG reporting rule. For example, collecting reporting data from individuals or fleets would be challenging, and perhaps unnecessary, when fuel tax data can be used to calculate transportation related emissions. More research is need regarding transportation emissions, and DEQ plans to follow-up on this issue as recommended by the GHGRAC.

The GHGRAC did not recommend requiring reporting for agriculture, forestry, residential or commercial facilities during this initial rulemaking. Instead, it encouraged DEQ to explore other avenues to improve the state GHG inventory for these sectors, and to consider future reporting. DEQ may propose reporting for additional sectors in the future once technical, legal and resource issues are resolved.

Reporting protocols excluded in the proposed rules

Several commenters recommended including reporting protocols in the reporting rules. Reporting protocols are emissions accounting and quantification procedures, and they provide guidance on how to identify and estimate GHG emissions at a source.

Because protocols are still being developed, DEQ recommends that they not be included in the rules at this time. DEQ is working with WCI partners and TCR to develop sector-based reporting protocols and plans to align Oregon's reporting protocols with the regional protocols. Once they are complete, DEQ will provide stakeholders with an opportunity to comment on the protocols through a 30 day public comment period.

Prior to reporting, DEQ will provide reporters with a reference list of approved protocols on DEQ's website. The website will also have emission calculation tools, reporting procedures and forms to help sources prepare their reports.

If adequate protocols are not available for a particular sector, DEQ plans to exempt sources in that sector from reporting until adequate protocols are available and included in the reference list. DEQ will provide written notification to sources exempted from reporting.

Emissions reporting thresholds

Several commenters recommended including an emission threshold for reporting. The initial proposed GHG reporting rule released for public comment included a 2,500- metric- ton CO₂e threshold for non-air quality permitted sources, but required all Title V sources to report their emissions along with a subset of Air Contaminant Discharge sources believed to emit some GHGs. The absence of an emission threshold for reporting could create a burden on some small businesses with air quality permits and creates inequity between non-air quality permitted sources. In response to these comments, DEQ has modified the proposed rules to apply a 2,500 MTCO₂e per year threshold to all sources.

While DEQ estimates that applying a 2,500 MTCO₂e per year threshold to air quality permitted sources would cut in half the number of sources required to report, sources emitting GHGs above this number generate close to 99 percent of industrial GHG emissions.

Next Steps

Rule Implementation

DEQ assembled a Greenhouse Gas Reporting Implementation Team, which has been meeting since December, 2007. The team is tasked with developing reporting forms and procedures, emission calculation tools, implementation mechanisms and a website to help sources identify and estimate their GHG emissions. The website is scheduled to go online this fall for sources that will be required to report their 2009 emissions in 2010.

DEQ is also working closely with WCI, TCR, and the US Environmental Protection Agency to harmonize DEQ's data collection system and protocols with regional and national systems.

Cross-Program Participation

The proposed rules would postpone GHG reporting for non-air permitted sources, (landfills and wastewater treatment facilities) until 2011. DEQ's air quality program is working with DEQ's water quality and land quality programs to address implementation issues and sector-specific protocols for landfill and wastewater treatment sources subject to GHG reporting.

Resources

During the current biennium, the air quality program has delayed other work and shifted resources to cover the cost of developing the GHG emissions reporting program. DEQ has proposed a budget package requesting resources to implement the program for the 2009-11 biennium. DEQ also plans to request authority to collect fees from reporters to fund the reporting program.

Attachments

- A. Proposed Rule Revisions (Public Notice (A1) & Final Version (A2))
- B. Advisory Committee Membership
- C. Summary of Public Comments and Agency Responses
- D. Written Comments Received (Available Upon Request)
- E. Statewide and EQC Presiding Officer's Report on Public Hearings (2 Reports)
- F. Relationship to Federal Requirements Questions
- G. Statement of Need and Fiscal and Economic Impact
- H. Land Use Evaluation Statement

Available Upon Request

- 1. Legal Notice of Hearing
- 2. Cover Memorandum from Public Notice
- 3. Written Comments Received
- 4. Rule Implementation Plan

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Approved:

Section: _____

Division: _____

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**VERSION OF THE RULES RELEASED FOR PUBLIC NOTICE
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION 215
GREENHOUSE GAS REPORTING REQUIREMENTS**

340-215-0010

Purpose and Scope

- (1) The purpose of this division is to establish requirements and procedures for the annual registration and reporting of greenhouse gas emissions to the Department using Department-approved reporting protocols.
- (2) Subject to the requirements in this Division and ORS 468A.100 through 468A.180, the Lane Regional Air Protection Agency is designated by the Environmental Quality Commission as the Agency to implement this Division within its area of jurisdiction. The requirements and procedures contained in this Division must be used by the Regional Agency to implement this Division unless the Regional Agency adopts superseding rules that are at least as restrictive as this Division.

Stat. Auth.: ORS 468A.050

Stats. Implemented: ORS 468 & ORS 468A

340-215-0020

Definitions

The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020, the definition in this rule applies to this division.

- (1) **“Carbon dioxide”** (CO₂) means the chemical compound containing one atom of carbon and two atoms of oxygen.
- (2) **“Carbon dioxide equivalent”** (CO₂e) means the quantity of a given greenhouse gas multiplied by a Global Warming Potential factor provided in Department-approved emissions reporting protocols.
- (3) **“Direct emissions”** means emissions from an air contamination source.
- (4) **“Global Warming Potential factor”** (GWP) means the radiative forcing impact of one mass-based unit of a given greenhouse gas relative to an equivalent unit of carbon dioxide over a given period of time.

Attachment A-1: Rules from Public Notice Pkg, 4/1/2008

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- (5) **“Greenhouse gas”** means any gas that contributes to anthropogenic global warming including, but not limited to, carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.
- (6) **“Hydrofluorocarbons”** (HFCs) means gaseous chemical compounds containing only hydrogen, carbon and fluorine atoms.
- (7) **“Indirect emissions”** means emissions associated with the purchase of electricity, heating, cooling or steam.
- (8) **“Methane”** (CH₄) means the chemical compound containing one atom of carbon and four atoms of hydrogen.
- (9) **“Metric ton, tonne, or metric tonne”** means one metric tonne (1000 kilograms) or 2204.62 pounds.
- (10) **“Mobile Combustion Emissions”** means emissions from the combustion of fuels in mobile combustion sources such as cars, trucks, buses, trains, airplanes, ships, and construction equipment.
- (11) **“Nitrous oxide”** (N₂O) means the chemical compound containing two atoms of nitrogen and one atom of oxygen.
- (12) **“Perfluorocarbons”** (PFCs) means gaseous chemical compounds containing only carbon and fluorine atoms.
- (13) **“Reporting year”** means the calendar year in which emissions required to be reported under this division occurred.
- (14) **“Sulfur hexafluoride”** (SF₆) means the chemical compound containing one atom of sulfur and six atoms of fluorine.
- (15) **“The Climate Registry”** means the nonprofit corporation by that name incorporated under the District of Columbia Nonprofit Corporation Act with a purpose of creating and operating a North American greenhouse gas emissions registry.

Stat. Auth.: ORS 468A.050

Stats. Implemented: ORS 468 & ORS 468A

340-215-0030

Applicability

- (1) The following persons must annually register and report greenhouse gas emissions beginning in 2010 regarding greenhouse gas emitted during the previous calendar year:
 - (a) Any owner or operator of a source required to obtain a Title V Operating Permit, including those issued under OAR Chapter 340, Division 218;

Attachment A-1: Rules from Public Notice Pkg, 4/1/2008

PROPOSED NEW DIVISION AND RULES WITHIN OAR CHAPTER 340

Item C 000009

(b) Any owner or operator of a source required to obtain an Air Contaminant Discharge Permit, including those issued under OAR Chapter 340, Division 216 and that is referred to by one or more of the selected activities and sources listed in Table 1:

**Table 1: ACDP Activities and Sources
 Required to Report Greenhouse Gas Emissions**

Table Part	Category Code	Description
A	2	Natural Gas and Propane Fired Boilers (with or without #2 diesel oil back-up (a) of 10 or more MMBTU but less than 30 MMBTU/hr heat input constructed after June 9, 1989
B	3	Ammonia Manufacturing
B	4	Animal Rendering and Animal Reduction Facilities
B	5	Asphalt Blowing Plants
B	6	Asphalt Felts or Coatings
B	7	Asphaltic Concrete Paving Plants both stationary and portable
B	8	Bakeries, Commercial over 10 tons of VOC emissions per year
B	11	Beet Sugar Manufacturing
B	12	Boilers and other Fuel Burning Equipment over 10 MMBTU/hr heat input, except exclusively Natural Gas and Propane fired units (with or without #2 diesel backup) under 30 MMBTU/hr heat input
B	13	Building paper and Buildingboard Mills
B	14	Calcium Carbide Manufacturing
B	16	Cement Manufacturing
B	18	Charcoal Manufacturing
B	21	Coffee Roasting (roasting 30 or more tons per year)
B	25	Electrical Power Generation from combustion (excluding units used exclusively as emergency generators)
B	30	Galvanizing and Pipe Coating (except galvanizing operations that use less than 100 tons of zinc/yr)
B	31	*** Gasoline Plants and Bulk Terminals subject to OAR 340, Division 232
B	33	Glass and Glass Container Manufacturing
B	36	Gray iron and steel foundries, malleable iron foundries, steel investment foundries, steel foundries 100 or more tons/yr metal charged (not elsewhere identified)
B	37	Gypsum Products Manufacturing
B	38	Hardboard Manufacturing (including fiberboard)
B	39	Incinerators with two or more ton per day capacity
B	40	Lime Manufacturing
B	44	Marine Vessel Petroleum Loading and Unloading
B	48	Natural Gas and Oil Production and Processing and associated fuel burning equipment
B	49	Nitric Acid Manufacturing
B	50	Non-Ferrous Metal Foundries 100 or more tons/yr of metal charged

Attachment A-1: Rules from Public Notice Pkg, 4/1/2008

PROPOSED NEW DIVISION AND RULES WITHIN OAR CHAPTER 340

Table Part	Category Code	Description
B	51	Organic or Inorganic Industrial Chemical Manufacturing and Distribution with ½ or more tons per year emissions of any one criteria pollutant (sources in this category with less than ½ ton/yr of each criteria pollutant are not required to have an ACDP)
B	53	Particleboard Manufacturing (including strandboard, flakeboard, and waferboard)
B	56	Petroleum Refining and Re-refining of Lubricating Oils and Greases including Asphalt Production by Distillation and the reprocessing of oils and/or solvents for fuels
B	57	Plywood Manufacturing and/or Veneer Drying
B	58	Prepared feeds for animals and fowl and associated grain elevators 10,000 or more tons per year throughput
B	59	Primary Smelting and/or Refining of Ferrous and Non-Ferrous Metals
B	60	Pulp, Paper and Paperboard Mills
B	63	Secondary Smelting and/or Refining of Ferrous and Non-Ferrous Metals
B	65	Sewage Treatment Facilities employing internal combustion for digester gasses
B	70	Synthetic Resin Manufacturing

Notes:

*** Portland AQMA, Medford-Ashland AQMA or Salem SKATS only

(a) “back-up” means less than 10,000 gallons of fuel per year

(c) Any owner or operator of a source required to obtain an Air Contaminant Discharge Permit, including those issued under OAR Chapter 340, Division 216 that is referred to by the activities and sources listed in Table 1 Part B number 75 of OAR Chapter 340, Division 216, and by the Standard Industrial Classification (SIC) codes in Table 2:

Table 2: Activities and Sources with SIC Codes Required to Report Greenhouse Gas Emissions

SIC	Description
2041	Flour and Other Grain Mill Products
2096	Potato Chips, Corn Chips, and Similar Snacks
2421	Sawmills and Planing Mills, General
2499	Wood Products, Not Elsewhere Classified
2752	Commercial Printing, Lithographic
2816	Inorganic Pigments
3251	Brick and Structural Clay Tile
3296	Mineral Wool
3297	Nonclay Refractories
3559	Special Industry Machinery , Not Elsewhere Classified
3672	Printed Circuit Boards
3674	Semiconductors and Related Devices

Attachment A-1: Rules from Public Notice Pkg, 4/1/2008

PROPOSED NEW DIVISION AND RULES WITHIN OAR CHAPTER 340

4961	Steam and Air Conditioning Supply
5093	Scrap and Waste Materials
9711	National Security (NAICS 928110)

(2) Except as provided in subsection (5), any owner or operator of a source listed in this section that emits 2500 metric tons or more of carbon dioxide equivalent per year and is not otherwise subject to registration and reporting under subsections (1) (a), (b) or (c) of this section must annually register and report greenhouse gas emissions beginning in 2011 regarding greenhouse gases emitted during the previous calendar year:

(a) solid waste disposal facilities required to obtain a permit issued under OAR Chapter 340, Divisions 93 through 96,

(b) wastewater treatment facilities required to obtain an individual National Pollutant Discharge Elimination System permit issued under OAR Chapter 340, Division 45,

(c) electric generating units, and

(d) electricity and natural gas transmission and distribution systems (concerning transmission and distribution losses).

(3) Any owner or operator of a source required to register and report greenhouse gas emissions under this division may voluntarily include additional emissions from the previous calendar year not required under this division, including but not limited to mobile combustion and indirect emissions.

(4) Any owner or operator of a source not required to register and report greenhouse gas emissions under this division may do so voluntarily for emissions from the previous calendar year.

(5) The Department may delay the initial reporting year for sources required to report under subsection (2) by up to one year upon determining that the additional time is needed to develop adequate reporting protocols.

Stat. Auth.: ORS 468A.050

Stats. Implemented: ORS 468 & ORS 468A

340-215-0040

Greenhouse Gas Registration and Reporting Requirements:

(1) Any owner or operator required to register and report under OAR 340-215-0030(1) and (2) must report direct emissions of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride greenhouse gases, excluding emissions from categorically insignificant activities.

Attachment A-1: Rules from Public Notice Pkg, 4/1/2008

PROPOSED NEW DIVISION AND RULES WITHIN OAR CHAPTER 340

(2) Any person required to report under OAR 340-215-0030 must submit an annual greenhouse gas emissions report to the Department as specified below:

(a) Any owner or operator of a source required to register and report under OAR 340-215-0030(1) must register and report regarding greenhouse gases emitted during the previous calendar year by the due date for the annual report for non-greenhouse gas emissions specified in the source's Title V Operating Permit or Air Contaminant Discharge Permit, or March 15th of each year, if no due date is otherwise specified in the permit; and

(b) Any person required to register and report under OAR 340-215-0030(2) must register and report by March 15th of each year regarding greenhouse gases emitted during the previous calendar year.

(c) Any person voluntarily including additional emissions pursuant to OAR 340-215-0030(3) must include those emissions with their report pursuant to subsections (2)(a) and (b).

(d) Any person voluntarily registering and reporting pursuant to OAR 340-215-0030(4) must register and report regarding greenhouse gases emitted during the previous calendar year by March 15th of each year.

(3) Registration and reports must be submitted on paper or electronic forms issued by the Department, which will require the following information:

(a) source information such as source name, address, contact person, phone number, and permit number, if applicable;

(b) emissions of the applicable greenhouse gases identified in subsection (1) of this section, pursuant to Department-approved reporting protocols, including estimated annual emissions, activity data, emission factors, conversion factors, global warming potential factor, and the emissions calculation methods used to determine emissions; and

(c) a signed statement certifying that the report is accurate to the best of the certifying individual's knowledge.

(4) Any person required to report under this section must retain all greenhouse gas reporting records for, at a minimum, 5 years.

Stat. Auth.: ORS 468A.050

Stats. Implemented: ORS 468 & ORS 468A

**DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION 215
GREENHOUSE GAS REPORTING REQUIREMENTS**

340-215-0010

Purpose and Scope

- (1) The purpose of this division is to establish requirements and procedures for the annual registration and reporting of greenhouse gas emissions to the Department using Department-approved reporting protocols.
- (2) Subject to the requirements in this Division and ORS 468A.100 through 468A.180, the Lane Regional Air Protection Agency is designated by the Environmental Quality Commission as the Agency to implement this Division within its area of jurisdiction. The requirements and procedures contained in this Division must be used by the Regional Agency to implement this Division unless the Regional Agency adopts superseding rules that are at least as restrictive as this Division.

Stat. Auth.: ORS 468A.050

Stats. Implemented: ORS 468 & ORS 468A

340-215-0020

Definitions

The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020, the definition in this rule applies to this division.

- (1) **“Biomass”** means non-fossilized and biodegradable organic material originating from plants, animals, and micro-organisms, including products, byproducts, residues and waste from agriculture, forestry, and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic matter.
- (2) **“Carbon dioxide”** (CO₂) means the chemical compound containing one atom of carbon and two atoms of oxygen.
- (3) **“Carbon dioxide equivalent”** (CO₂e) means the quantity of a given greenhouse gas multiplied by a Global Warming Potential factor provided in Department-approved emissions reporting protocols.
- (4) **“Categorically insignificant activity”** has the meaning given that term in OAR 340-200-0020 (19).
- (5) **“Direct emissions”** means emissions from an air contamination source, including but not limited to fuel combustion activities, process related emissions, and fugitive emissions.

PROPOSED NEW DIVISION AND RULES WITHIN OAR CHAPTER 340

- (6) **“Fugitive emissions”** has the meaning given that term in OAR 340-200-0055 (a) and (b).
- (7) **“Global Warming Potential factor”** (GWP) means the radiative forcing impact of one mass-based unit of a given greenhouse gas relative to an equivalent unit of carbon dioxide over a given period of time.
- (8) **“Greenhouse gas”** means any gas that contributes to anthropogenic global warming including, but not limited to, carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.
- (9) **“Hydrofluorocarbons”** (HFCs) means gaseous chemical compounds containing only hydrogen, carbon and fluorine atoms.
- (10) **“Indirect emissions”** means emissions associated with the purchase of electricity, heating, cooling or steam.
- (11) **“Methane”** (CH₄) means the chemical compound containing one atom of carbon and four atoms of hydrogen.
- (12) **“Metric ton, tonne, or metric tonne”** means one metric tonne (1000 kilograms) or 2204.62 pounds.
- (13) **“Mobile combustion emissions”** means emissions from the combustion of fuels in mobile combustion sources such as cars, trucks, buses, trains, airplanes, ships including dredge vessels, and construction equipment.
- (14) **“Nitrous oxide”** (N₂O) means the chemical compound containing two atoms of nitrogen and one atom of oxygen.
- (15) **“Perfluorocarbons”** (PFCs) means gaseous chemical compounds containing only carbon and fluorine atoms.
- (16) **“Sulfur hexafluoride”** (SF₆) means the chemical compound containing one atom of sulfur and six atoms of fluorine.

Stat. Auth.: ORS 468A.050

Stats. Implemented: ORS 468 & ORS 468A

340-215-0030

Applicability

- (1) Except as provided in section (6) of this rule, any owner or operator of a source listed in this section that emits 2,500 metric tons or more of carbon dioxide equivalent per year of the greenhouse gases listed in section (5) of this rule must annually register and report greenhouse gas emissions beginning in 2010 regarding greenhouse gases emitted during the previous calendar year:
 - (a) Any source required to obtain a Title V Operating Permit, including those issued under OAR Chapter 340, Division 218;
 - (b) Any source required to obtain an Air Contaminant Discharge Permit, including those issued under OAR Chapter 340, Division 216 and that is referred to by one or more of the selected activities and source types listed in Table 1;

PROPOSED NEW DIVISION AND RULES WITHIN OAR CHAPTER 340

**Table 1: ACDP Activities and Sources
 Required to Report Greenhouse Gas Emissions**

Table Part	Category Code	Description
A	2	Natural Gas and Propane Fired Boilers (with or without #2 diesel oil back-up (a) of 10 or more MMBTU but less than 30 MMBTU/hr heat input constructed after June 9, 1989
B	3	Ammonia Manufacturing
B	4	Animal Rendering and Animal Reduction Facilities
B	5	Asphalt Blowing Plants
B	6	Asphalt Felts or Coatings
B	7	Asphaltic Concrete Paving Plants both stationary and portable
B	8	Bakeries, Commercial over 10 tons of VOC emissions per year
B	11	Beet Sugar Manufacturing
B	12	Boilers and other Fuel Burning Equipment over 10 MMBTU/hr heat input, except exclusively Natural Gas and Propane fired units (with or without #2 diesel backup) under 30 MMBTU/hr heat input
B	13	Building paper and Buildingboard Mills
B	14	Calcium Carbide Manufacturing
B	16	Cement Manufacturing
B	18	Charcoal Manufacturing
B	21	Coffee Roasting (roasting 30 or more tons per year)
B	25	Electrical Power Generation from combustion (excluding units used exclusively as emergency generators)
B	30	Galvanizing and Pipe Coating (except galvanizing operations that use less than 100 tons of zinc/yr)
B	31	*** Gasoline Plants and Bulk Terminals subject to OAR 340, Division 232
B	33	Glass and Glass Container Manufacturing
B	36	Gray iron and steel foundries, malleable iron foundries, steel investment foundries, steel foundries 100 or more tons/yr metal charged (not elsewhere identified)
B	37	Gypsum Products Manufacturing
B	38	Hardboard Manufacturing (including fiberboard)
B	39	Incinerators with two or more ton per day capacity
B	40	Lime Manufacturing
B	44	Marine Vessel Petroleum Loading and Unloading
B	48	Natural Gas and Oil Production and Processing and associated fuel burning equipment
B	49	Nitric Acid Manufacturing
B	50	Non-Ferrous Metal Foundries 100 or more tons/yr of metal charged
B	51	Organic or Inorganic Industrial Chemical Manufacturing and Distribution with ½ or more tons per year emissions of any one criteria pollutant (sources in this category with less than ½ ton/yr of each criteria pollutant are not required to have an ACDP)
B	53	Particleboard Manufacturing (including strandboard, flakeboard, and

PROPOSED NEW DIVISION AND RULES WITHIN OAR CHAPTER 340

Table Part	Category Code	Description
		waferboard)
B	56	Petroleum Refining and Re-refining of Lubricating Oils and Greases including Asphalt Production by Distillation and the reprocessing of oils and/or solvents for fuels
B	57	Plywood Manufacturing and/or Veneer Drying
B	58	Prepared feeds for animals and fowl and associated grain elevators 10,000 or more tons per year throughput
B	59	Primary Smelting and/or Refining of Ferrous and Non-Ferrous Metals
B	60	Pulp, Paper and Paperboard Mills
<u>B</u>	<u>62</u>	<u>Sawmills and/or Planing Mills 25,000 or more bd. ft./maximum 8 hr. finished product</u>
B	63	Secondary Smelting and/or Refining of Ferrous and Non-Ferrous Metals
B	65	Sewage Treatment Facilities employing internal combustion for digester gasses
B	70	Synthetic Resin Manufacturing

Notes:

*** Portland AQMA, Medford-Ashland AQMA or Salem SKATS only

(a) “back-up” means less than 10,000 gallons of fuel per year

(c) Any source required to obtain an Air Contaminant Discharge Permit, including those issued under OAR Chapter 340, Division 216 that is referred to by the activities and source types listed in Table 1 Part B number 75 of OAR Chapter 340, Division 216, and by the Standard Industrial Classification (SIC) codes in Table 2:

Table 2: Activities and Sources with SIC Codes Required to Report Greenhouse Gas Emissions

SIC	Description
2041	Flour and Other Grain Mill Products
2096	Potato Chips, Corn Chips, and Similar Snacks
2421	Sawmills and Planing Mills, General
2499	Wood Products, Not Elsewhere Classified
2752	Commercial Printing, Lithographic
2816	Inorganic Pigments
3086	<u>Plastic Foam Products</u>
3251	Brick and Structural Clay Tile
3296	Mineral Wool
3297	Nonclay Refractories
3559	Special Industry Machinery , Not Elsewhere Classified
3672	Printed Circuit Boards
3674	Semiconductors and Related Devices
4961	Steam and Air Conditioning Supply
5093	Scrap and Waste Materials
9711	National Security (NAICS 928110)

PROPOSED NEW DIVISION AND RULES WITHIN OAR CHAPTER 340

- (2) Except as provided in section (6) of this rule, any owner or operator of a source listed in this section that emits 2,500 metric tons or more of carbon dioxide equivalent per year of the greenhouse gases listed in section (5) of this rule and is not otherwise subject to registration and reporting under subsections (1) (a), (b) or (c) of this rule must annually register and report greenhouse gas emissions beginning in 2011 regarding greenhouse gases emitted during the previous calendar year:
- (a) solid waste disposal facilities required to obtain a permit issued under OAR Chapter 340, Divisions 93 through 96,
 - (b) wastewater treatment facilities required to obtain an individual National Pollutant Discharge Elimination System permit issued under OAR Chapter 340, Division 45,
 - (c) electric generating units, and
 - (d) electricity and natural gas transmission and distribution systems.
- (3) Any owner or operator of a source required to register and report greenhouse gas emissions annually under this division may voluntarily include additional emissions from the previous calendar year not required under this division, including but not limited to mobile combustion and indirect emissions.
- (4) Any owner or operator of a source not required to register and report greenhouse gas emissions annually under this division may do so voluntarily for emissions from the previous calendar year.
- (5) The greenhouse gases subject to this rule are carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.
- (6) The Department may defer or exempt specific processes, or categories of sources, that result in greenhouse gas emissions, and types of greenhouse gas emissions from applicability under sections (1) and (2) of this rule upon determining that adequate reporting protocols are not available.

Stat. Auth.: ORS 468A.050

Stats. Implemented: ORS 468 & ORS 468A

340-215-0040

Greenhouse Gas Registration and Reporting Requirements:

- (1) Any owner or operator required to register and report under OAR 340-215-0030(1) and (2) must report direct emissions of carbon dioxide, methane, nitrous oxide, hydrofluorocarbons,

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perfluorocarbons, and sulfur hexafluoride greenhouse gases, excluding emissions from categorically insignificant activity.

- (2) Emissions that originate from biomass must be reported separately from the source's other greenhouse gas emissions.
- (3) Any person required to register and report under OAR 340-215-0030 must submit an annual greenhouse gas emissions registration and report to the Department as specified below:
 - (a) Any owner or operator of a source required to register and report under OAR 340-215-0030(1) must register and report regarding greenhouse gases emitted during the previous calendar year by the due date for the annual report for non-greenhouse gas emissions specified in the source's Title V Operating Permit or Air Contaminant Discharge Permit, or March 15th of each year, if no due date is otherwise specified in the permit;
 - (b) Any person required to register and report under OAR 340-215-0030(2) must register and report by March 15th of each year regarding greenhouse gases emitted during the previous calendar year; and
 - (c) Any person voluntarily including additional emissions pursuant to OAR 340-215-0030(3) must include those emissions with their report pursuant to subsections (a) and (b) of this section.
- (4) Any person voluntarily registering and reporting pursuant to OAR 340-215-0030(4) must register and report regarding greenhouse gases emitted during the previous calendar year by March 15th of each year.
- (5) Registration and reports must be submitted on paper or electronic forms issued by the Department, which will require the following information:
 - (a) source information such as source name, address, contact person, phone number, and permit number, if applicable;
 - (b) emissions of the applicable greenhouse gases identified in section (1) of this rule, pursuant to Department-approved reporting protocols, including estimated annual emissions, activity data, emission factors, conversion factors, global warming potential factor, and the emissions calculation methods used to determine emissions; and
 - (c) a signed statement certifying that the report is accurate to the best of the certifying individual's knowledge.
- (6) The Department shall propose reporting protocols for use pursuant to this division and shall approve reporting protocols after holding a 30 day public comment period. The Department shall maintain a reference list of Department-approved reporting protocols to assist persons required to register and report under OAR 340-215-0030.

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(7) Any person required to report under this division must retain all production information, fuel use records, and emission calculations used to prepare the greenhouse gas annual report. These records and greenhouse gas annual reports must be retained for a minimum of 5 years.

Stat. Auth.: ORS 468A.050
Stats. Implemented: ORS 468 & ORS 468A

Greenhouse Gas Mandatory Reporting Advisory Committee Membership and Final Recommendations

On July 17, 2007, Governor Kulongoski asked the Environmental Quality Commission to consider adopting a greenhouse gas mandatory reporting rule. The Oregon Department of Environmental Quality formed an advisory committee in October 2007 to assist with this effort. The advisory committee was made up of citizens, local government representatives, environmental, and business interests. Members included:

Mark Reeve, Chair	Reeve Kearns PC
Susan Anderson	City of Portland Office of Sustainable Development
Pam Barrow	Northwest Food Processors Association
Jeremiah Baumann	Environment Oregon
Steve Bicker	NW Natural
Kyle Davis	PacifiCorp
Angus Duncan	Bonneville Environmental Foundation
Jim Edelson	Oregon Interfaith Global Warming Campaign
Jason Eisdorfer	Citizens' Utility Board of Oregon
Lee Fortier	Dry Creek Landfill
Chuck Gatchell	Nike
Suzanne Lacampagne	Miller Nash/Associated Oregon Industries
Marv Lewallen	Weyerhaeuser
Tom O'Connor	OR Municipal Electric Utilities
Scott Stewart	Intel
Tom Wood	Stoel Rives/Ash Grove Cement
Tom Zelenka	Schnitzer Steel/Cascade Steel Rolling Mills

Ex-Officio Members

David Van't Hof	Governor's Office
Andy Ginsburg	ODEQ Air Quality Administrator
Uri Papish	ODEQ Air Quality Manager
Diana Enright	ODOE Assistant Director
Merlyn Hough	Lane Regional Air Protection Agency

GHGRAC project staff:

Marianne Fitzgerald	ODEQ Air Quality Planner
Brandy Albertson	ODEQ Emission Inventory Analyst
Wes Risher	ODEQ Emission Inventory Analyst
Bill Drumheller	ODOE Senior Policy Analyst
Phil Carver	ODOE Senior Policy Analyst
Lisa Schwartz	OPUC Senior Analyst
Lori Koho	OPUC Senior Analyst

Summary of Recommendations

The Greenhouse Gas Reporting Advisory Committee (GHGRAC) was established in October 2007 to assist the Department in developing a greenhouse gas mandatory reporting rule. This report is the final product of the GHGRAC's recommendations and was submitted to the Director of ODEQ in January 2008. The purpose of this report is to document options, key discussions, and recommendations for the reporting scope of a mandatory GHG emissions reporting system in the state of Oregon.

The following is a summary of GHGRAC's final recommendations. The Greenhouse Gas Reporting Advisory Committee recommended "casting a wide net" of reporters to get a better understanding of which sources emit greenhouse gases in Oregon and to provide context for future policy considerations. The GHGRAC recommended the following for the mandatory greenhouse gas reporting system for Oregon:

- 1) Reporting from Electric, Gas and Other Energy Sector Sources:
 - For the mandatory greenhouse gas reporting system: the GHGRAC recommended that entities generating or supplying electricity would report as described in the electric utilities subcommittee report (Chapter V, pages 38-44 of this workgroup report). Natural gas utilities, interstate oil and natural gas pipelines, and propane and fuel oil distributors would also report their product sales and natural gas transport volumes, including transmission and other system losses.
 - For the mandatory reporting system rules that ODEQ is developing for EQC consideration in 2008, the GHGRAC recommended the reporting of emissions from sources that are located in Oregon. This would include:
 - Investor-owned utilities that report to consumers through the Public Utility Commission and ODOE (PacifiCorp and PGE);
 - In-state emission sources that are currently permitted under Title V or Air Contaminant Discharge Permits; and
 - In-state emission sources that are not currently permitted under Title V or Air Contaminant Discharge Permits and emit greenhouse gases (such as SF₆ emissions from the electrical transmission and distribution system).ODEQ should request that out-of-state emission sources that have emissions associated with retail electricity load sales in Oregon, consumer-owned utilities, and Idaho Power, report greenhouse gas emissions voluntarily, until ODEQ authority to mandate reporting from these sources is clarified.
- 2) Reporting from Sources that are not Energy Sector Sources:
 - For the mandatory greenhouse gas reporting system for Oregon as well as the mandatory reporting system rules that ODEQ is developing for EQC consideration in 2008:

- All sources that are permitted by ODEQ or LRAPA under Title V or Air Contaminant Discharge Permits would report. The inventory method would follow The Climate Registry protocols or other industry-appropriate protocols, as determined by rule or guidance. Emissions that are currently considered "categorically insignificant" under OAR 340-200-0020(18) (or as may be modified for this rule) would not be required to be reported. Emissions that are considered "de minimis" under The Climate Registry draft protocols would be reported in accordance with The Climate Registry protocols.
 - All sources that are permitted under other ODEQ statutes (such as landfills and wastewater treatment plants) would report if they are permitted by ODEQ or LRAPA under Title V or Air Contaminant Discharge Permits, or if ODEQ or LRAPA estimate that the greenhouse gas emissions may be more than 2500 metric tons of CO₂E (not including categorically insignificant emissions).
 - All sources would report mobile emissions only on a voluntary basis
- 3) Greenhouse Gases. The GHGRAC recommended that all sources report all greenhouse gases in terms of carbon dioxide-equivalent (CO₂E), so that all greenhouse gases would be included in the emissions report, in accordance with The Climate Registry protocols.
- 4) Emissions Accounting. The emissions accounting methodology would follow industry-appropriate protocols for Scope 1, Scope 2 and Scope 3 and report all emissions from operations associated with servicing the Oregon retail load. However, emissions accounting would include on-site or off-site mobile emissions on a voluntary basis only. Since reporting from multiple sources would result in double-reporting of some emissions, ODOE, ODEQ and LRAPA will need to avoid double-counting when compiling an Oregon statewide emissions inventory. Recognizing that this recommendation within mandatory reporting rules is different from The Climate Registry draft voluntary reporting protocols, DEQ should recommend to The Climate Registry that its protocols accommodate state mandatory reporting requirements where appropriate.
- 5) Mobile Source Emissions. The GHGRAC recognized the importance of capturing motor vehicle fleet information, but recognized the complexities of implementing mandatory reporting at this time, particularly for sources that are not currently required to report emissions to ODEQ and LRAPA. The GHGRAC recommended that, in addition to collecting comprehensive data on fuel consumption for inventory and benchmarking purposes, and collecting comprehensive vehicle miles traveled (VMT) and statewide vehicle data for mobile source modeling purposes, ODEQ convene a mobile source reporting task force in September 2008 to make recommendations regarding reporting rules for fleets and other mobile emissions sources, including an emissions threshold, and to make recommendations to the Legislature as needed. The GHGRAC encourages existing sources, including fleets, to report mobile source greenhouse gas emissions voluntarily.

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- 6) Verification. The GHGRAC recommended relying on existing verification methods (e.g. self-certification with periodic inspections by ODEQ and LRAPA inspectors) for the Oregon Greenhouse Gas Mandatory Reporting System. The GHGRAC did not recommend third party verification for the reporting rules that DEQ is developing for EQC consideration in 2008; instead, this issue would be reviewed when more is known about the design of a regional market-based multi-sector mechanism being developed by the Western Climate Initiative partnership.
- 7) Agriculture and Forestry. The GHGRAC recommended that the scope for the mandatory greenhouse gas reporting system for Oregon address agriculture and forestry in the future. The Committee did not recommend that these sources be required to report under the mandatory reporting rules that ODEQ is developing for EQC consideration in 2008 unless these sources have a Title V or Air Contaminant Discharge Permit. ODEQ and ODOE will discuss agricultural reporting with the Oregon Department of Agriculture (ODA), and discuss forestry reporting with the Oregon Dept. of Forestry (ODF). The GHGRAC recommended that ODEQ and ODOE ask ODA and ODF for existing additional data that would improve the top-down statewide emissions inventory for these categories of sources.
- 8) Data Submittal. The GHGRAC recommended submitting data to ODEQ and LRAPA rather than The Climate Registry, with an understanding that the data would be submitted in a format that could simply be passed-through to The Climate Registry. Sources would have an option to submit data directly to The Climate Registry if it also registers with ODEQ or LRAPA and the data can be disaggregated for the purposes of meeting Oregon's mandatory reporting rules. Data that is reported voluntarily may be submitted directly to The Climate Registry if this data is also available to ODEQ and LRAPA.
- 9) Initial Reporting Year. The GHGRAC recommended 2009 as the initial reporting year with initial reports due in 2010, to avoid retroactive reporting of emissions. The GHGRAC also recommended developing incentives to encourage early reporting.
- 10) Implementation Mechanism. The GHGRAC recommended that the mandatory reporting requirements be implemented without opening up existing permits until the next major modification or renewal.
- 11) Purpose. The GHGRAC recommendations for designing a mandatory greenhouse gas reporting system for Oregon are to help Oregon improve its understanding of greenhouse gas emissions and assist in future policy development, and not primarily for implementing a market-based multi-sector mechanism such as a load-based cap-and-trade program. The fact that sources are required to report greenhouse gas emissions does not necessarily imply that they should serve as a point of regulation for the purpose of implementing a regional market-based multi-sector mechanism or other emission reduction strategy. ODEQ will review the reporting rules when more

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is known about the design of a regional or national market-based mechanism and other emission reduction strategies.

- 12) Budget. The GHGRAC recommended that ODEQ and other implementing agencies seek adequate resources and legislative authority to carry out GHGRAC recommendations for a mandatory greenhouse gas reporting system for Oregon. Because greenhouse gases are produced by all sectors of Oregon's economy, the Advisory Committee recommended that the legislature should consider general funds to support the program.

Attachment C

Summary of Public Comment and Agency Response

Title of Rulemaking: Greenhouse Gas Mandatory Reporting Rules

Prepared by: Brandy Albertson and Uri Papish

Date: September 9, 2008

Comment period

The public comment period opened on April 1, 2008 and closed at 5:00pm on May 16, 2008. 41 people provided written and/or oral comments during the public comment period as follows:

- 37 provided written comments;
- 14 people testified; and
- 10 provided both written and oral comments.

DEQ convened the public hearings which all began at their scheduled time and adjourned at the conclusion of testimony. For more information on hearing dates, locations, and number of attendees please refer to **Appendix 1** of this document.

Organization of comments and responses

Summaries of individual comments and the DEQ's responses are provided below. Comments are summarized in categories. The persons who provided each comment are referenced by number. A list of commenters and their reference numbers are located in **Appendix 2** of this document.

Comments are organized under the following categories:

- A. HOW WILL THE DATA COLLECTED BY THE PROPOSED RULES BE USED?
- B. WHAT SECTORS SHOULD BE INCLUDED IN THE PROPOSED RULES?
- C. GREENHOUSE GAS REPORTING PROTOCOLS
- D. GREENHOUSE GAS REPORTING REQUIREMENTS
- E. IMPLEMENTATION OF GREENHOUSE GAS RULES
- F. WESTERN CLIMATE INITIATIVE'S PROPOSED REGIONAL CAP AND TRADE PROGRAM
- G. GENERAL COMMENTS SUPPORTING OR OPPOSING THE GREENHOUSE GAS REPORTING RULES

Acronyms

Department of Environmental Quality (DEQ)
Environmental Quality Commission (EQC)
Greenhouse Gases (GHG)
Greenhouse Gas Rules Advisory Committee (GHGRAC)
Lane Regional Air Protection Agency (LRAPA)
Oregon Department of Energy (ODOE)
Oregon Department of Transportation (ODOT)
Oregon Department of Agriculture (ODA)
Oregon Department of Forestry (ODF)
The Climate Registry (TCR)
Western Climate Initiative (WCI)



Summary of Comments and Agency Responses	
A. HOW WILL THE DATA COLLECTED BY THE PROPOSED RULES BE USED?	
1. Data collection for making policy decisions:	<ul style="list-style-type: none"> • Comprehensive greenhouse gas emissions data should be collected before making any greenhouse gas policy decisions. (1, 6, 7, 35) • DEQ needs to make greenhouse gas emissions data available to cities, counties, and communities to help them identify their carbon footprints and assess local reduction strategies. (6, 7, 41) • Emissions data from mandatory reporting can help jurisdictions meet their local greenhouse gas reduction goals. (6, 41) • One commenter expressed concern that physical boundaries for emissions are not always obvious in an inventory making it difficult to establish physical boundaries for developing and tracking greenhouse gas reduction strategies (6)
DEQ Response	<p>DEQ agrees that quality data is essential to a successful reporting program. The proposed rules are important for identifying significant sources of greenhouse gas emissions in the state. The emissions data reported would assist policy makers in selecting reduction strategies and in tracking and evaluating progress toward statewide and regional greenhouse gas emissions reduction goals.</p> <p>The physical address of sources and reported emissions will be compiled in an emissions inventory database and the information will be available to cities, counties, and the general public.</p>
2. Timing of the rules:	<ul style="list-style-type: none"> • DEQ should extend the first reporting year from 2010 to 2011. (9) • DEQ should delay the rules until the Western Climate Initiative has released their recommendations. (13) • DEQ rules may be pre-empted by the United States Environmental Protection Agency's greenhouse gas mandatory reporting rule. (5, 28) • DEQ needs to harmonize the rules with the WCI, The Climate Registry, and EPA. (38) • DEQ needs to avoid rushing the process to keep from collecting poor quality data. (23)
DEQ Response	<p>DEQ acknowledges that timing is crucial for the proposed rules, especially with the WCI developing model rules and EPA proposing a mandatory greenhouse gas reporting program. DEQ's goal is to harmonize the proposed rules with the WCI, TCR, and EPA efforts as much as possible. However, it is important for DEQ to receive emission reports as early as possible so that emission data will be available for decision making about greenhouse gas reduction strategies. Therefore,</p>

	<p>DEQ recommends retaining 2010 as the first reporting year for sources with existing air quality permits and 2011 as the first reporting year for other sources that will be subject to the reporting rules.</p> <p>DEQ is a member of the WCI and TCR and is participating in developing regional cap and trade design recommendations, a model greenhouse gas reporting rule, and a centralized data repository. This provides DEQ with an opportunity to avoid inconsistency by informing, and being informed by, the federal and regional efforts.</p> <p>There is no precedence for EPA to pre-empt state reporting requirements, and that is not likely to occur for greenhouse gas reporting. However, EPA and TCR are coordinating to avoid duplication in the data repository system and reporting protocols. EPA has also formed a workgroup of several states to review the federal greenhouse gas reporting rules. These steps for developing greenhouse gas reporting systems are already “harmonizing” state participation with the WCI, TCR, and EPA.</p> <p>DEQ concurs that this data collection effort should not be rushed to ensure good quality data. Rule language has been added to phase in reporting and for DEQ to exempt reporting for certain processes or greenhouse gases until adequate reporting protocols are developed. See 340-215-0040 (3). This is to ensure that reporting protocols are complete and adequate for estimating all sources of greenhouse gases.</p>
<p>B. WHAT SECTORS SHOULD BE INCLUDED IN THE PROPOSED RULES?</p>	
<p>3. Inclusion of all sectors in the proposed rules.</p>	<ul style="list-style-type: none"> • DEQ is not targeting the larger and faster-growing greenhouse gas emitters with these rules, such as transportation and transportation fuels, and electricity. (11, 13, 16, 18, 26, 29, 31, 32, 41) • DEQ needs to consider all economic sectors: transportation, electricity, industry, commercial and residential, forestry, and agriculture. (5, 8, 13, 18) • DEQ needs to account for all sectors and carbon sinks because focusing on one particular sector may cause economic activities to shift from regulated to unregulated sectors. (5) • Mandatory fleet reporting is not supported by commenter. (23)
<p>DEQ Response</p>	<p>DEQ recognizes that transportation, agriculture, forestry, residential and commercial sectors should be included in the statewide GHG emissions inventory to provide a complete picture of Oregon’s total carbon emissions. However, because reporting for these sectors is not practical – and may not be necessary - DEQ recommends excluding them from this initial GHG reporting rule.</p>

	<p>Collecting reporting data from individuals or fleets would be challenging, and perhaps unnecessary, when fuel tax data can be used to calculate transportation related emissions. More research is need regarding transportation emissions, and DEQ plans follow-up on this issue as recommended by the GHGRAC.</p> <p>The GHGRAC did not recommend requiring reporting for agriculture, forestry, residential or commercial facilities during this initial rulemaking. Instead, it encouraged DEQ to explore other avenues to improve the state GHG inventory for these sectors, and to consider future reporting. DEQ may propose reporting for additional sectors in the future once technical, legal and resource issues are resolved.</p>
<p>4. Inclusion of the agriculture and forestry sectors</p>	<ul style="list-style-type: none"> • Forest wildfires are the single largest greenhouse gas emitters in Oregon and the most effective way to reduce greenhouse gases is to improve forest management practices. (21) • DEQ should use the best and most modern analytical tools for measuring emissions (12, 21). • A few commenters stated that a forest fire model exists that could be used to estimate carbon emissions from forest fires. (5, 12, 21)
<p>DEQ Response</p>	<p>DEQ agrees that forest wildfires are a major contributor of biogenic GHG emissions and it is essential that good forest management practices are used to manage and prevent these fires.</p> <p>While a large portion of greenhouse gas emissions originate from the agriculture and forestry sectors, mandatory reporting for these sectors is not practical at this time due to a number of factors (including a lack of reporting protocols).</p> <p>DEQ plans to collaborate with the Oregon Departments of Energy, Agriculture, and Forestry to improve the statewide greenhouse gas emissions inventory by identifying the best data sources and models for estimating emissions from the agriculture and forestry sectors. Policy makers will be able to use this data to address greenhouse gases through improving agriculture and forestry management practices.</p>
<p>5. Advisory Committee Recommendations</p>	<p>DEQ did not include all of the sectors recommended by the Greenhouse Gas Rules Advisory Committee. (13)</p>
<p>DEQ Response</p>	<p>The proposed rules mirror GHGRAC's recommendations with two exceptions. Due to potential gaps in legal authority, DEQ is not proposing to require reporting of GHG emissions from:</p> <ol style="list-style-type: none"> 1. Power used in Oregon that is generated outside of Oregon; and 2. Distribution of fuels used in Oregon that result in GHG emissions when later burned.

	DEQ intends to introduce legislation in 2009 requesting authority for the EQC to require reporting for these two emission categories.
6. Inclusion of other emission sources	DEQ rules do not adequately represent other emission sources and should include landfills, sewage treatment facilities, and electric transmission line losses, transportation terminals, and tank farms. (26)
DEQ Response	The proposed rules include landfills, sewage treatment facilities, and electric transmission line losses in the second phase of reporting. These entities would be responsible for reporting their 2010 emissions in 2011. DEQ and DOE will try to quantify the emissions from other sources outside the scope of the reporting rule through the statewide greenhouse gas emissions inventory.
7. Inclusion of Heating Fuels	DEQ should not exempt reporting of heating oil, natural gas and propane fuels. (31)
DEQ Response	<p>The most practical method for collecting data from the heating fuel sector is for DEQ to require reporting from heating fuel distributors. However, while ORS 468A.050 authorizes the EQC to require reporting from emitters of greenhouse gases, there is some uncertainty over EQC's authority to require reporting from fuel distributors because they do not emit greenhouse gases themselves.</p> <p>DEQ plans to introduce legislation in the 2009 legislative session to clarify the authority for the EQC to require reporting from transportation fuel distributors. DEQ recommends that heating fuel distributors be excluded from the proposed rules until EQC's authority is clarified.</p>
8. Only municipalities should report emissions from landfills and wastewater treatment	Proposed rules should only pertain to municipal landfills and wastewater treatment facilities. (36)
DEQ Response	Reporting from both municipal and industrial landfills and wastewater treatment facilities is needed to adequately represent the contributions of various sectors to Oregon's total carbon emissions. DEQ has proposed an emissions reporting threshold of 2,500 MTCO ₂ e in the proposed rules, which will exempt some of the smaller landfill and wastewater facilities from reporting.
9. Inclusion of transportation fuels	<ul style="list-style-type: none"> • DEQ should include a future date in the rules for transportation sources to start reporting. (6) • DEQ could collect existing mobile emissions data from other sources such as Oregon Department of Transportation. (18)

	<ul style="list-style-type: none"> • Transportation fuels are a major source of greenhouse gases and should be included in the scope of the proposed rules. (6, 7, 16, 31) • If transportation fuels cannot be included in this phase of rulemaking, a commenter requests DEQ revisit the issue and include it in next phase of rulemaking. (6) • DEQ should utilize existing fuel sales data for calculating emissions from the transportation sector. (18, 26, 32)
<p>DEQ Response</p>	<p>The most practical method for collecting data from the transportation sector is for DEQ to require reporting from transportation fuel distributors. However, while ORS 468A.050 authorizes the EQC to require reporting from emitters of greenhouse gases, there is some uncertainty over EQC's authority to require reporting from fuel distributors because they do not emit greenhouse gases themselves.</p> <p>DEQ plans to introduce legislation in the 2009 legislative session to clarify the authority for the EQC to require reporting from transportation fuel distributors. DEQ recommends that transportation fuel distributors be excluded from the proposed rules until EQC's authority is clarified.</p>
<p>C. GREENHOUSE GAS REPORTING PROTOCOLS</p>	
<p>10. Reporting protocols are not included in the proposed rules.</p>	<p>Several commenters recommended that reporting protocols be included in the reporting rules. Reporting protocols are emissions accounting and quantification procedures, and are used to provide guidance to sources on how to identify and estimate GHG emissions. (9, 13, 15, 18, 19, 23, 33, 37, 38)</p>
<p>DEQ Response</p>	<p>Because protocols are still being developed, DEQ recommends that they not be included in the rules at this time. DEQ is working with WCI partners and TCR to develop sector-based reporting protocols and plans to align Oregon's reporting protocols with the regional protocols. Once complete DEQ will provide stakeholders with an opportunity to comment on the protocols through a 30 day public comment period.</p> <p>Prior to reporting, DEQ will provide reporters with a reference list of approved protocols on DEQ's website. The website will also have emission calculation tools, reporting procedures and forms to help sources prepare their reports.</p> <p>If adequate protocols are not available for a particular sector, DEQ plans to exempt sources in that sector from reporting until adequate protocols are available and included in the reference list. DEQ will provide written notification to sources exempted from reporting.</p>
<p>11. Reporting</p>	<ul style="list-style-type: none"> • A selection process for greenhouse gas reporting protocols should be

<p>protocols should be selected by a public process.</p>	<p>addressed in formal rulemaking with public input. (9, 15, 18, 33)</p> <ul style="list-style-type: none"> • If DEQ cannot provide the reporting protocols in rule DEQ should approve protocols through a public process (15, 18, 23).
<p>DEQ Response</p>	<p>DEQ agrees that protocols may eventually be adopted through a rulemaking process. However, because protocols are still under development, DEQ recommends that they not be adopted by rule at this time. DEQ recommends that protocols be handled as described in response to comment 10 for now, and that protocols be adopted as part of a future revision to these reporting rules.</p>
<p>12. Delay in reporting</p>	<ul style="list-style-type: none"> • Reporting should not be required for a sector until one year after a protocol is developed and put through a public comment period. (18, 23) • For landfill and wastewater treatment facilities, initial reporting should be delayed for one year or more until site-specific reporting protocols are developed. (22, 33, 37, 40)
<p>DEQ Response</p>	<p>As described in response to question 2, it is important for DEQ to receive emission reports as early as possible so that emission data will be available for decision making about greenhouse gas reduction strategies.</p> <p>However, DEQ recognizes that a transition period may be required when a new protocol is developed (or an existing protocol is changed) such that different monitoring or record keeping is required. DEQ intends to evaluate the length of the transition period needed to implement new protocols and provide a proposed effective date prior to the public comment period. Changes to protocols that do not result in a change in monitoring requirements may not require a full year for transition.</p> <p>DEQ intends to inform sources of the effective date of new or modified protocols through written notification. The effective date of the protocols will also be included on the reference list posted on DEQ's website.</p>
<p>13. Missing sector-specific reporting protocols and quantification methods</p>	<ul style="list-style-type: none"> • There are no sector-specific reporting protocols in TCR's General Reporting Protocol for charcoal briquets, landfills, and wastewater treatment facilities. (24, 28, 33, 40) • No emissions quantification method exists to convert VOC process emissions to greenhouse gas emissions. (27)
<p>DEQ Response</p>	<p>DEQ recognizes that some of TCR's protocol are still in development and may be incomplete. DEQ is taking measures to address these issues and will provide sources with the protocols they need to report or exempt them from reporting. See response to question 10.</p>
<p>14. Reporting protocols for electricity and</p>	<p>A reporting protocol for electricity and natural gas transmission & distribution lines is not in rules. DEQ should use TCR's General Reporting Protocol. (19)</p>

natural gas T & D lines	
DEQ Response	DEQ is evaluating TCR's General Reporting Protocol for transmission and distribution lines. DEQ will determine the protocol to be used by Oregon reporters for this sector, and will publish it in the reference list of Department-approved protocols.
15. Exemption from rules for sources with no reporting protocols	The rule should include an exemption from emissions reporting for wastewater treatment facilities, specifically for fugitive methane and nitrous oxide emissions, until appropriate protocols are developed and DEQ notifies these sources in writing about their availability. (22, 37)
DEQ Response	DEQ agrees and has added proposed rule language that would allow DEQ to exempt reporting for sources if adequate reporting protocols are not available. [340-215-0040 (3)]
16. TCR's General Reporting Protocol	The rules indicate that sources subject to reporting should use TCR's General Reporting Protocol, but this protocol is flawed. (5)
DEQ Response	TCR's General Reporting Protocol is only one reference DEQ will consult in selecting protocols for use by Oregon reporters. DEQ plans to work with WCI partners and TCR to develop sector-based reporting protocols, and will exempt a sector from reporting if adequate protocols do not exist. See response to comment 10.
17. Flexibility for reporting	DEQ should be flexible with reporting and not recommend specific reporting protocols. (27)
DEQ Response	While flexibility is important, allowing too much flexibility could undermine the integrity of the data. DEQ is providing a reference list of approved protocols to ensure that reported data is accurate and developed in a consistent and transparent manner.
18. Uniformity for reporting protocols	Uniform reporting protocols should be established for both mandatory and voluntary reporting. (4, 37)
DEQ Response	DEQ recognizes that uniform reporting standards are necessary to accurately track progress toward statewide and regional greenhouse gas emission reduction goals. Because of this, DEQ will provide a reference list of approved reporting protocols for sources to estimate their greenhouse gas emissions. The list will be harmonized with protocols used by WCI, TCR and other states.
19. Department-approved protocols	"Department-approved protocols" should be removed from the rules. (15, 27)
DEQ Response	See response to question 10.

20. Emission Tools and Guidance:	<ul style="list-style-type: none"> The non-air permitted sources have no access to emissions measurement tools and guidance; therefore, they should be removed from the reporting rules until tools and guidance are developed. (9) DEQ should develop a spreadsheet to help sources determine whether they meet or exceed the emissions reporting threshold. (34)
DEQ Response	<p>As describe in response to question 10, DEQ is developing reporting procedures, and emission calculation tools to assist sources with reporting.</p> <p>DEQ will also provide tools to help sources determine whether they meet or exceed the 2,500 MTCO₂e emissions reporting threshold.</p>
21. Existing reporting requirements for carbon dioxide	<p>There are already mandatory reporting requirements for carbon dioxide and the emissions are reported to both the EPA and ODOE annually. (13)</p>
DEQ Response	<p>DEQ acknowledges that several Oregon sources already report CO₂ emissions through other state and federal programs. However, the proposed rules require sources to report other greenhouse gases in addition to CO₂. To the extent that reports developed for other state and federal reporting programs meet DEQ's reporting protocols, sources will be able to use this information in their reports under the proposed rules.</p>
<p>D. GREENHOUSE GAS REPORTING REQUIREMENTS</p>	
22. Definitions:	<p>Several commenters recommended changes to the definitions.</p> <ul style="list-style-type: none"> Remove "The Climate Registry" because it is not used anywhere else in the proposed rules. (15, 23, 32, 33) The definition for "Greenhouse Gas" implies that there are more gases than the six Kyoto protocol gases identified and the actual six Kyoto protocol greenhouse gases DEQ requires for reporting are not identified until later in the proposed rules. (29) Update the definition of "Global Warming Potential Factor" to "Radiative Forcing Potential Factor" (30), Include dredge vessels with "ship" in the "Mobile Combustion Emissions" definition, (36) Add "Fugitive Emissions" to definitions. (20) "Categorically Insignificant" should be included in definitions with examples and/or at least referenced to 340-200-0020. (27, 29) Commenters informed DEQ of a discrepancy in definition for "system losses." (19, 26)
DEQ Response	<p>The term "The Climate Registry" has been removed from the rules.</p> <p>The definition of "greenhouse gas" was taken from House Bill 3543; and</p>

	<p>is intended to be broad. The rules specify which greenhouse gases must be reported.</p> <p>DEQ believes “Global Warming Potential Factor” is a slightly more understandable term than “Radiative Forcing Potential Factor.” Both have the same meaning.</p> <p>DEQ has modified the definition “Mobile Combustion Emissions” to include dredge vessels with “ship” in 340-215-0020 (13).</p> <p>The definitions of “fugitive emissions” and “categorically insignificant activity” have been added to the rule in 340-215-0020 (4) and (6) respectively.</p> <p>The term “system losses” has been removed from 340-215-0030 (2), (d) of the rules to avoid confusion.</p>
<p>23. Legal issues concerning “applicability” in electricity sector</p>	<p>DEQ needs to clarify who will responsible for reporting emissions from transmission & distribution losses when an electricity distributor does not own or operate the power generating unit. (26)</p>
<p>DEQ Response</p>	<p>The proposed rules require owners and operators of electricity and natural gas transmission and distribution systems to report direct emissions, including fugitive emissions. If the entity does not own or operate a portion of a transmission or distribution system, it would not have to report emissions from those portions.</p>
<p>24. Emissions Reporting Thresholds:</p>	<ul style="list-style-type: none"> • DEQ should also apply the 2,500 metric ton carbon dioxide equivalent emissions (MTCO_{2e}) reporting threshold to the Title V and Air Contaminant Discharge Permit holders to reduce the burden on small businesses(14, 34) • Commenter supports 2,500 MTCO_{2e} per year emissions reporting threshold. (19) • Establishing a threshold creates an incentive for smaller sources to stay below the threshold to avoid future regulation. (8, 14)
<p>DEQ Response</p>	<p>In response to these comments, DEQ recommends applying the 2,500 MTCO_{2e} per year threshold to all sources, and has modified the proposed rules to reflect that change. (340-215-0030 (1), (a-c))</p> <p>The absence of a threshold could create a burden on some small businesses with air quality permits and creates inequity between non-air quality permitted sources. DEQ estimates that applying the 2,500 MTCO_{2e} per year threshold to air quality permitted sources would cut in half the number of sources required to report, but because the sources above the threshold account for most of the emissions, this would result in a loss of reporting of about one percent of the state’s industrial GHG emissions.</p>

25. De Minimis Level	<ul style="list-style-type: none"> • DEQ should be consistent with The Climate Registry’s de minimis level (5 percent) for both direct and indirect emissions. (24) • DEQ should include a provision in the rules to exclude reporting de minimis emissions after the first year of reporting. The exception is when a change in operations occurs such as increasing fuel use which would increase emissions. (29)
DEQ Response	DEQ’ is evaluating the use of The Climate Registry’s de minimis level. DEQ will address the use of de minimis levels as part of the reporting protocols and instructions provided in reference materials on DEQ’s web site (see response to question 10).
26. Direct Emissions:	<ul style="list-style-type: none"> • DEQ rules are not clear on what greenhouse gas emissions should be reported. (29) • Rules should exempt rolling calendar year tracking of greenhouse gas emissions. (2) • Reporting should be limited to stationary sources only. (29)
DEQ Response	<p>340-215-0040 describes what emissions and types of emissions need to be reported under these proposed rules. The sources would report direct emissions of carbon dioxide, methane, nitrous oxide, sulfur hexafluoride, hydrofluorocarbons, and perfluorocarbons. Reporting of indirect GHG emissions - such as emissions from power consumption, employee commuting, or air travel - would not be required. In addition, certain types of direct emissions would be excluded from reporting, including mobile activities (such as delivery vehicles, forklifts, and fleets) and “categorically insignificant” emission activities. “Categorically insignificant” emissions are defined in OAR 340-200-0020 (19) and include food service, janitorial, groundskeeping, onsite laundry, recreational and other activities.</p> <p>The proposed rules do not require tracking of emissions by a rolling calendar year. Sources will need to report activity throughput (e.g. fuel use, production activity, etc) and annual emissions on a calendar year basis (January through December).</p>
27. Indirect Emissions:	<ul style="list-style-type: none"> • The rules should require reporting of indirect emissions. (5) • The flexibility of the rules for reporting indirect emissions and historical greenhouse gas emissions data is appealing. (4) • Voluntary reporting of indirect emissions should be removed from the rules and instead DEQ should incorporate a phase-in approach to include indirect emissions in mandatory reporting.(4) • The permit deadline for including voluntary reporting of indirect emissions may be difficult to meet. (4)

DEQ Response	The EQC arguably does not have clear legal authority to require certain indirect emissions to be reported. Because of this, the proposed rules only mandate reporting of direct greenhouse gas emissions and not indirect emissions. However, sources may still report indirect emissions on a voluntary basis.
28. Reporting to third party registries:	<ul style="list-style-type: none"> • DEQ lacks the authority to require reporting to third party registries. (23, 32) • DEQ should receive the greenhouse gas emissions data first and then send it to The Climate Registry. (8, 9, 18, 23) • Reporting to The Climate Registry directly will be a significant increase in cost to businesses. (28)
DEQ Response	The proposed rules require sources to report directly to DEQ. DEQ intends to submit reported data to The Climate Registry.
29. Third Party Verification:	<ul style="list-style-type: none"> • DEQ should continue with the existing state self certification methods and not go to third party verification. (9, 18, 23, 28, 29, 32) • Third party verification would not be necessary if DEQ provides the greenhouse gas emissions factors for those sources subject to reporting. (24, 32) • It would be a significant increase in cost to businesses to participate in third party verification of greenhouse gas data via The Climate Registry, and may exceed the cost required to just prepare emissions data for annual reports. (9, 28) • Title V sources are currently required to self certify emissions data in their annual report; it is considered a criminal act to provide a false statement. (23) • A commenter supports third party verification because it is a necessary process for both regulatory and market-based mechanisms such as Western Climate Initiative's cap and trade proposal. (31)
DEQ Response	<p>DEQ is not proposing third party verification at this time. However, DEQ recognizes the benefits of third party verification, particularly if reported emissions were to become an article of trade in a future regional cap-and-trade system. The purpose for third party verification is to ensure emissions data is consistent, accurate, and transparent. It also provides an objective and uniform approach to verifying emissions data.</p> <p>Under the proposed rules DEQ will review the reported information. DEQ may propose adding a requirement for third party verification for Oregon's largest emitters in a future rulemaking if necessary under a future regional cap-and-trade system.</p>
30. Third Party Lawsuits:	<ul style="list-style-type: none"> • DEQ should exempt information collected via these rules from third party lawsuits. (29) • DEQ should consider greenhouse gas data to be informational and

	not used for regulatory purposes. (9)
DEQ Response	<p>The proposed rules require certain sources to report greenhouse gas emissions. The reported emission data do not, in and of themselves, create a basis for lawsuits. However, failure to comply with the reporting requirements could be subject to third party enforcement under law that cannot be changed by rule.</p> <p>The emission reports do not, in and of themselves, result in further regulatory requirements. However, the reports may be used by DEQ to evaluate the need for regulations or to help design and implement future regulations.</p>
31.Record-keeping:	DEQ needs to clarify record retention requirements in the greenhouse gas reporting rules. (27)
DEQ Response	<p>DEQ agrees and has proposed a revision to clarify the record retention requirements. Sources must retain all of their production information, fuel use records and emission calculations used to prepare the greenhouse gas annual report. These records and greenhouse gas annual reports must be retained for a minimum of 5 years.</p> <p>See 340-215-0040 (8) of the rules.</p>
32. Confidentiality:	<ul style="list-style-type: none"> The reporting protocol for these rules needs to exclude the reporting of confidential business information. (15)
DEQ Response	Since sources report directly to DEQ for these proposed rules, the confidentiality of business information and emissions data is subject to Oregon statutes including the Oregon Public Records Law. Sources may claim that certain information is exempt from disclosure by DEQ pursuant to applicable law, including ORS 192.501-.502.
33. Categorically insignificant activities	<ul style="list-style-type: none"> Commenters support DEQ in not including categorically insignificant activities in these rules because it would be an expensive and time consuming endeavor with little benefit. (9, 15, 18, 23, 27, 29, 32) DEQ should raise the de minimis level or emissions reporting threshold to eliminate categorically insignificant sources from reporting. (27, 28)
DEQ Response	DEQ acknowledges the support for retaining the exemption for reporting emissions from categorically insignificant activities. Categorically excluding insignificant activities, such as janitorial work, from reporting reduces the burden of calculating emissions from the activities. The alternative of relying on a de minimis level would be less efficient because reporters would have to quantify emissions from all insignificant activities to determine if total emissions are below the de minimis level.

34. Biogenic (biomass) emissions	<ul style="list-style-type: none"> • DEQ needs to include a requirement in the rules to report emissions that originate from biomass and to report these emissions separately from the rest of the source's total greenhouse gas emissions. (5, 18, 23, 24, 25, 28, 33)
DEQ Response	<p>DEQ agrees, and recommends that emissions from biomass be included in reporting and reported separately from fossil-fuel and process emissions in greenhouse gas annual reports. Both the definition and reporting requirement for "biomass" has been added to the proposed rules, 340-215-0020 (1) and 340-215-0040 (2) respectively.</p>
35. Registration Requirements:	<ul style="list-style-type: none"> • The registration requirement for air permitted sources (i.e. Title V and Air Contaminant Discharge Permits) should be removed from the proposed rules because it is redundant and unnecessary. Title V and Air Contaminant Discharge Permit sources are already registered through these permitting programs with DEQ and should not have to repeat the requirement each year for greenhouse gas reporting. (9, 15, 18, 23, 32) • Registration is not a prerequisite for reporting (23) • Registration and reporting should be separate activities, so the rules should also include a deadline for sources to register each year (3)
DEQ Response	<p>The registration requirement enables DEQ to maintain a list of all sources subject to reporting requirements. Registration will be used to identify all sources with annual emissions over 2,500 MTCO_{2e}, including the subset of permitted sources required to report, non-permitted sources required to report, and sources that report directly to TCR. DEQ proposed a combined process for registration and reporting so that the registration process is not an added burden.</p>
E. IMPLEMENTATION OF GREENHOUSE GAS RULES	
36. Implementation Mechanism (Permit Modifications):	<ul style="list-style-type: none"> • DEQ needs to add the greenhouse gas mandatory reporting requirements to existing air permits. (34) • GHG reporting requirements should be added to the permits by a department initiated permit modification because reporting is initiated by these rules and not by the sources. (15) • DEQ needs to proceed slowly on the implementation of these rules. (29)
DEQ Response	<p>DEQ plans to modify the Title V and ACDP permits to include the greenhouse gas mandatory reporting requirements either: 1) as permits are modified or renewed, or 2) by a department initiated administrative amendment. DEQ proposes implementing the greenhouse gas mandatory reporting requirements for non-air permitted sources by rule.</p>

F. WESTERN CLIMATE INITIATIVE'S PROPOSED REGIONAL CAP AND TRADE PROGRAM	
37. Baseline, Early Action Credit, Fees, and Offsets	<ul style="list-style-type: none"> • Commenters are concerned about whether the reporting rules will establish the baseline for the cap and trade program because that may prevent sources from getting credit for early actions to reduce greenhouse gases if WCI chooses a later year. (4, 13, 29) • Commenters indicate that regulatory and market-based mechanisms will only hurt Oregon's economy and might drive businesses out of the state. (4, 29) • DEQ should only count anthropogenic carbon emissions in a trading program. (25) • Commenters indicate that a reporting requirement for offsets should be included under these rules in order to accurately reflect reductions in greenhouse gases. (17, 30) • Lane Regional Air Protection Agency should move from a permit payment process on allowable emissions to actual emissions for the greenhouse gas reporting program. (28)
DEQ Response	DEQ acknowledges the commenters' concerns regarding a potential future cap and trade program. However, these comments are not directly related to the proposed reporting rules. The Western Climate Initiative has conducted an extensive process to address public comments on the design of a regional cap and trade program.
G. GENERAL COMMENTS SUPPORTING OR OPPOSING THE GREENHOUSE GAS REPORTING RULES	
38. Support or Oppose the rules	<p>DEQ received general comments supporting and opposing the greenhouse gas reporting rules.</p> <ul style="list-style-type: none"> • Some commenters indicate that DEQ is moving in the right direction with these rules, and that Oregon cannot meet its greenhouse gas reduction goals without adequate reporting (1, 10, 35, 41) • Some commenters are not convinced that global warming is a problem and some believe that any efforts to address global warming will be worthless. (2, 11, 39)
DEQ Response	DEQ acknowledges these comments supporting and opposing the greenhouse gas reporting rules.

Appendix 1: Public Hearings

Hearings Dates	Hearings Locations	Attendance
April 24, 2008	DEQ Headquarters 811 SW Sixth Avenue Portland, Oregon	15 people attended, 3 testified
May 1, 2008	Pendleton State Office Building 700 SE Emigrant St Pendleton, Oregon	8 people attended, 3 testified
May 5, 2008	Deschutes County Public Library 601 NW Wall St Bend, Oregon	No one attended
May 6, 2008	Klamath County Government Center 305 Main St Klamath Falls, Oregon	3 people attended, no one testified
May 7, 2008	Community Justice Center 1101 West Main St Medford, Oregon	4 people attended, 1 testified
May 8, 2008	Eugene Water and Electric Board 500 East 4 th Avenue Eugene, Oregon	17 people attended, 3 testified
May 9, 2008	Corvallis-Benton County Library 645 NW Monroe Avenue Corvallis, Oregon	9 people attended, 3 testified
May 15, 2008	DEQ Headquarters 811 SW Sixth Avenue Portland, Oregon	4 people attended, 2 testified

Appendix 2: List of Commenters and Reference Numbers

Reference Number	Name	Affiliation	Written Comments Received	Oral Comments Received
1	Bridget Cooke	Adelante Mujeres	4/2/2008	
2	Hal Ball	Citizen	4/2/2008	
3	Fritz Skirvin	Citizen	4/8/2008	
4	Brian Konen	West Linn Paper	5/6/2008	
5	Doug Heiken	Oregon Wild (2 Comments)	5/9/2008	5/8/2008
6	Charles Tomlinson	City of Corvallis	5/9/2008	5/9/2008
7	Patricia Daniels	Corvallis City Council	5/9/2008	5/9/2008
8	Peter Brewer	JELD-WEN Inc. Oregon Metals Industry	5/12/2008	
9	Mark Nelson	Council	5/12/2008	
10	Andrew Swanson	Citizen	5/14/2008	
11	Michael Riley	Citizen	5/14/2008	
12	Mike Dubrasich	W.I.S.E.	5/15/2008	5/15/2008
13	Thane Jennings	Calpine (2 oral comments)	5/15/2008	5/1/2008 & 5/15/2008
14	Mick Crowe	FCC Commercial Furniture NW Pulp and Paper	5/15/2008	
15	Kathryn VanNatta	Association Portland Office of	5/15/2008	
16	Sam Adams	Transportation	5/15/2008	
17	Alexia Kelly	The Climate Trust	5/15/2008	
18	Kate McCutchen	Blue Heron Paper	5/16/2008	4/24/2008
19	Tom O'Connor	Oregon Municipal Electric Utilities Association (OMEU) City of Eugene- Wastewater	5/16/2008	4/24/2008
20	Peter Ruffier	Division	5/16/2008	5/8/2008
21	Bob Zybach	ORWW	5/16/2008	5/8/2008
22	Janet Gillespie	ACWA	5/16/2008	
23	John Ledger	AOI	5/16/2008	
24	Roger Dilts	Clean Water Services	5/16/2008	
25	Russel Johnston	Covanta	5/16/2008	
26	Michael McCann	EWEB Integrated Device	5/16/2008	
27	Mike Weiby	Technology, Inc Kingsford Manufacturing	5/16/2008	
28	Mike Weaver	Company	5/16/2008	

Reference Number	Name	Affiliation	Written Comments Received	Oral Comments Received
29	Pam Barrow	NWFPA	5/16/2008	
30	Ewan O'Leary	Offset Collective, Inc.	5/16/2008	
31	Sallie Schullinger-Krause	Oregon Environmental Council, 1000 Friends, Ecumenical Ministeries, Renewable NW Oregon Forest Industries Council	5/16/2008	
32	Linc Cannon	Oregon Refuse and Recycling Association	5/16/2008	
33	Holly Sears	Orengo Systems, Inc	5/16/2008	
34	Ken Makinson	Owens Corning	5/16/2008	
35	Kimberly Howard	Port of Portland	5/16/2008	
36	David Breen	Portland Bureau of Environmental Services	5/16/2008	
37	Dean Marriott	Calpine		5/1/2008
38	Rick Colgan	Irrigon HS Student		5/1/2008
39	Samantha Egge	City of Medford		5/7/2008
40	Jim Hill	Citizen		5/9/2008
41	Annette Mills			

State of Oregon
Department of Environmental Quality

Memorandum

Presiding Officer's Report

Date: June 12, 2008

To: Environmental Quality Commission

From: Lynn Hampton, EQC Chair

Subject: Presiding Officer's Report for Rulemaking Hearing
Title of Proposal: Greenhouse Gas Mandatory Reporting Rule
Hearing Date and Time: April 24, 2008, 2:30 pm
Hearing Location: DEQ Headquarters, Room EQC-A

The Environmental Quality Commission convened the rulemaking hearing on the proposal referenced above on April 24 at 2:59 pm and closed it at 3:30 pm. People were asked to sign registration forms if they wished to present comments. People were also advised that the hearing was being recorded. About 20 people attended the hearing and three people testified.

Before taking comments, Marianne Fitzgerald of DEQ's Air Quality Division briefly explained the rulemaking proposal.

The following is a summary of oral comments received at the hearing. The Department will include these comments in the Summary of Comments and Agency Responses for this rulemaking.

Kate McCutcheon, Blue Heron Paper, supports industry reporting of greenhouse gases but is concerned that other large sectors of emitters are not proposed to be required to report, especially transportation sources. She is concerned we won't achieve Oregon's greenhouse gas reduction goals without going beyond the industrial sector. She supports the advisory committee's recommendation for improving data on transportation fuels by getting more detailed fuels tax data, but we also need to account for marine, rail, air and off-road vehicle emissions, perhaps by phasing it in. She appreciates that the draft rules require reporting to DEQ and does not support requiring to third party, especially an organization like The Climate Registry with no accountability in Oregon. She appreciates that the rules do not require third party verification because sources like Blue Heron Paper already certify that the data is correct and accurate, with DEQ verification. She understands that the Governor wants to move Oregon toward a cap and trade program but is concerned about those under the cap that cannot pass on costs because they compete with businesses outside of the WCI and OR and would experience a serious

disadvantage. She supports carbon emissions reporting, as is proposed in the draft DEQ rules, but not necessarily carbon footprint reporting, as is required by The Climate Registry protocols.

Tom O'Connor, Director, Oregon Municipal Electric Utilities Association (a trade association representing eleven small municipal electrical utilities) suggested one clarification in the rules regarding reporting of emissions from transmission and distribution systems, to explain what losses the sources would report, such as fugitive emissions from leaks of SF6. If there is a cap and trade system, OMEU supports inclusion of all sectors, including transportation.

Commissioner Blosser asked why GHGRAC believed that reporting from mobile sources would be difficult. Marianne explained that DEQ did follow GHGRAC recommendations requiring reports from facilities that already report to DEQ. Mobile sources such as fleets do not currently report; this effort would require a lot of training and data handling. DEQ does not currently have sufficient resources to support this effort. GHGRAC agreed to postpone this recommendation until later this year.

Jim Edelson, Oregon Interfaith Power and Light, elaborated further on the advisory committee recommendations and mobile sources. He supports the rule package for stationary sources but is disappointed with the delay regarding fleets. Since mobile sources represent up to 35% of Oregon's emissions, we will never achieve our emission reduction goals unless it's addressed. He supports reconvening a mobile source emissions task force this summer to study the point of regulation. He noted that Washington passed legislation this year requiring reporting from fleets, and Oregon should do the same as soon as possible. He also urged DEQ to work with other state agencies to get more accurate data on fuel consumption and the carbon content of fuels.

Commissioners asked a number of questions regarding reporting of greenhouse gas emissions, particularly related to transportation and building energy use. Commissioner Blosser asked what percent of greenhouse gas emissions are covered by this rule, and Marianne estimated about 20% (follow-up note: it's about 28%) and while the biggest sources are transportation and building energy, this proposal does not include transportation. Commissioner Blosser asked whether we need legislation for mobile source reporting, and Marianne responded that we may need additional authority for some sources, such as electricity and fuels, and preferred to wait for the mobile emissions task force recommendations, WCI recommendations, and Governor's recommendations regarding transportation and climate change. Marianne clarified that DEQ has authority to require reporting over those who generate emissions, but it's relatively easier to require reporting from fleets than from individual homeowners. Commissioner Williamson noted that transportation emissions could be calculated using odometer readings and a carbon calculator, and homeowner emissions could be reduced by providing energy use information feedback systems. Jim Edelson noted that the Western Climate Initiative is looking at where to measure emissions, and where it would most effectively change behavior. Commissioner Uherbelau asked about timeframes, and Marianne responded that DEQ is committed to following

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October 23, 2008 EQC Meeting
Attachment E
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up on the mobile emissions committee, although there are options such as putting it in the rule now.

State of Oregon
Department of Environmental Quality

Memorandum

Presiding Officer's Report

Date: May 12, 2008

To: Environmental Quality Commission

From: Brandy Albertson

Subject: Presiding Officer's Report for Rulemaking Hearing
Title of Proposal: Greenhouse Gas Mandatory Reporting Rules
Hearing Date, Time, and Location:
May 1, 2008 at 6:30pm in Pendleton, Oregon
May 5, 2008 at 6:30pm in Bend, Oregon
May 6, 2008 at 6:30pm in Klamath Falls, Oregon
May 7, 2008 at 6:30pm in Medford, Oregon
May 8, 2008 at 6:30pm in Eugene, Oregon
May 9, 2008 at 10:00am to 1:00pm in Corvallis, Oregon
May 15, 2008 in Portland, Oregon

The Department convened the rulemaking hearings on the proposal at the times mentioned above and adjourned the meetings at the conclusion of testimony. The following table consists of the dates, locations, attendance, and presiding officers for each hearing:

Hearings Dates	Hearings Locations	Attendance	Presiding Officer
May 1, 2008	Pendleton State Office Building 700 SE Emigrant St Pendleton, Oregon	8 people attended, 3 testified	Brandy Albertson
May 5, 2008	Deschutes County Public Library 601 NW Wall St Bend, Oregon	No one attended	Wes Risher
May 6, 2008	Klamath County Government Center 305 Main St Klamath Falls,	3 people attended, no one testified	Wes Risher

Hearings Dates	Hearings Locations	Attendance	Presiding Officer
	Oregon		
May 7, 2008	Community Justice Center 1101 West Main St Medford, Oregon	4 people attended, 1 testified	Audrey Eldridge
May 8, 2008	Eugene Water and Electric Board (EWEB) 500 East 4 th Avenue Eugene, Oregon	17 people attended, 3 testified	Brandy Albertson
May 9, 2008	Corvallis-Benton County Library 645 NW Monroe Avenue Corvallis, Oregon	9 people attended, 3 testified	Brandy Albertson
May 15, 2008	DEQ Headquarters 811 SW Sixth Avenue Portland, Oregon	4 people attended, 2 testified	Wes Risher

Before taking comments at each hearing, the presiding officers briefly explained the procedures for the hearing and a presentation on the rulemaking proposal was given by DEQ lead staff. People were asked to sign registration forms if they wished to present comments. People were also advised that the hearing was being recorded.

The following is a summary of written and oral comments received at the hearing. The Department will include these comments in the Summary of Comments and Agency Responses for this rulemaking.

May 1, 2008 in Pendleton, Oregon:

Rick Colgan Plant Manager, Hermiston Power Partners Calpine Corp., presented both written and oral testimony as follows. It is premature to be issuing rules now knowing that Oregon is actively participating in the WCI process to reach a regional cohesiveness for developing greenhouse gas reporting and regulatory processes. In reviewing the rule it insufficiently identifies the reporting protocols at this time. The focus on the existing air permit holders at this time is understood which it is easy to do. There are issues with the fact that some facilities are already reporting CO₂ emissions to EPA and ODOE for the state of Oregon. Further comments were deferred to the next Commenter.

Thane Jennings Plant Engineer, Hermiston Power Partners Calpine Corp., presented both written and oral testimony as follows.

The GHG rules lack details on how GHGs are to be reported. The rule is a Trojan horse, once adopted DEQ can put anything into guidance about how GHGs are quantified and DEQ can change the guidance at anytime with out approval or oversight by the public or regulated industry. Reporting protocols should be in the rules to have some certainty about what DEQ is requiring for reporting.

DEQ needs to cooperate with other state and federal agencies to use the same methodology they already use to report their CO₂ emissions. HPP's CO₂ emissions are available online from EPA; DEQ could download emissions from there and reduce the regulatory burden on the plant. Too much uncertainty is in the proposed rules such as how offsets are counted and whether credit will be given for offsets.

Samantha Egge Irrigon high school student presented oral testimony only. Commentor felt that global warming is not real and that we should not be picking on industry or business to collect greenhouse gas emissions.

May 5, 2008 in Bend, Oregon:

No oral or written comments were received.

May 6, 2008 in Klamath Falls, Oregon:

No oral or written comments were received at this time.

May 7, 2008 in Medford, Oregon:

Jim Hill Medford Regional Water Reclamation Facility (City of Medford) presented only oral testimony as follows. Commenter was speaking on behalf of City of Medford and ACWA which supports monitoring and reporting of greenhouse gases. However, there are no adequate monitoring and reporting protocols for reporting fugitive emissions of greenhouse gases from wastewater treatment facilities. ACWA proposes changing rule language to exclude fugitive emissions from wastewater facilities with an ACDP in source category B65 and only require 2009 stack emissions to be reported in 2010. Rules should also include an extension beyond one year for developing monitoring and reporting protocols because it might take longer than a year to develop adequate protocols. DEQ will also need to notify wastewater treatment facilities in writing that monitoring and reporting protocols have become available.

Due to high costs it is suggested that DEQ not make individual facilities do testing. There is value in working with other states in the WCI to develop and apply a regional monitoring and reporting protocol for wastewater treatment facilities. California has already hired a consultant to develop monitoring and reporting protocols and it is recommended that Oregon and WCI support California in this effort.

May 8, 2008 in Eugene, Oregon:

Doug Heiken of Oregon Wild presented both written and oral testimony as follows.

Urge DEQ to adopt the most comprehensive and effective program possible. Understand that this is step 1 and really that the rules will be adjusted in the future so these comments are directed toward the next phase of implementation. Nonpoint sources (i.e. land-use, agriculture, and forestry) of GHGs are considered significant contributors to the overall problem and should be included in the reporting program.

Rules include sawmills, planing mills, plywood manufacturers, particleboard manufacturers and other wood products companies. However, the rules fail to include carbon emissions from the land management practices (i.e. logging, slash burning, and site preparation) that bring those products into the mill. Same issue exists with the carbon consequences of agriculture that are not included in greenhouse gas reports for other products such as animal feed, beet sugar, bakeries, potato chips, and snack foods. These carbon rich materials pass through industries and they represent a small fraction of the full carbon consequences of producing these materials. If the consequences are not fully communicated, it will result in shifting carbon emissions from industries that are reported to those that are not reported which is often known as leakage. Recommends a program that accounts for all sinks and sources of GHGs from all sectors and an inclusive economic system will encourage economic activities that are suitable for our climate.

There is concern that past effort to regulate air and water pollution from nonpoint sources have not worked very well and DEQ needs to avoid the trap from the past for this important climate issue. Do not want to adopt an imperfect program for such an important issue.

There is concern that Oregon is following the flawed approach used by the WCI which would exclude forestry from the requirement to report but include it in the offsets program. Gave an example that its like a bank that counts all the deposits, but does not include the withdrawals; therefore, that bank would not stay in business for long.

There is concern about DEQ using The Climate Registry's General Reporting Protocol because it falls short of TCR's stated intent. Some of the concerns are relevant to the GHG rules because DEQ's reporting requirement only require direct emissions but to get the complete carbon picture both direct and indirect emissions need to be reported.

Note: Doug Heiken also submitted written comments on another person's testimony in an attempt to refute the validity of this person's comments. DEQ's public hearing process does not contain a mechanism for challenging testimony.

Bob Zybach Representative of Oregon Websites and Watersheds Project, Inc. (ORWW) presented oral testimony. He also submitted written testimony as a concerned citizen that did not represent ORWW. Commenter believes that reducing greenhouse gas levels to under 1990 levels is relatively easy approach without increasing regulations or creating unnecessary burden on Oregon business. Attention needs to be on the focus and intensity of management practices on forestlands. Forests are rather large carbon sinks that release enormous amounts of carbon dioxide during forest fires. Though, this is an unpredictable one time release the carbon dioxide associated with those releases dwarf any continuous emitter of greenhouse gases. Further, the commentor proposed four ways to manage forest lands with the intent to reduce greenhouse gas emissions statewide. The four ways to manage forest lands and reduce greenhouse gases are as follows:

- 1) No reliable Oregon data available for forest fires and rotting tree emissions for 1990 and recommends using Bonnicksen's 2008 Forest Carbon and Emissions Model. The commentor recommends using this model as a retrospective measure of 1990 target emissions for Oregon forestlands and remains in use until a better model is developed.
- 2) Prevent forest fires
- 3) Salvage dead wood
- 4) Plant new trees

Peter Ruffier Director of City of Eugene Public Works presented both written and oral testimony.

Currently, there are various protocols and strategies for quantifying greenhouse gas emissions from wastewater treatment facilities, but there is no single method accepted. Many of these protocols use generic or estimated values for calculating emissions from different processes and seem highly unreliable. Studies are currently underway to bring more accuracy into quantifying these emissions and should be complete within 2 years.

Due to the lack of certainty in the accuracy of these protocols it is suggested that DEQ modify the GHG rules to provide additional time for these protocols to be developed. The Commenter supports ACWA's proposed modifications to exclude fugitive emissions of methane and nitrous oxide from any wastewater treatment facility with an air permit under source category B65. DEQ will need to notify wastewater treatment facilities in writing when adequate protocols are available. DEQ will also need to provide an extension beyond a year to allow for ample time to develop protocols and should include "fugitive emissions" in the definitions or within the rules.

Also, DEQ needs to coordinate with the national and regional initiatives to develop sufficient protocols.

May 9, 2008 in Corvallis, Oregon

Charlie Tomlinson Mayor of Corvallis presented both written and oral testimony.

Corvallis is in support of the GHG rules and realizes that implementation of GHG reporting is needed to monitor progress toward reduction goals. The GHG reporting protocols and rules should enable cities to determine their part of the total emissions profile. As states determine their GHG emissions profile, local governments and communities should be allowed to drill down into the state data to determine their part in the big picture. OAR 340-215-0040 should require physical sources be added, their addresses, so the data can be sorted by location to get the data locally. The data would assist local governments in making reduction strategies and tracking progress of the strategies.

Transportation fuels should also be included in reporting because they are such a large source of CO₂ emissions in Oregon. Commenter understands that transportation fuel use extends beyond geopolitical boundaries making it difficult to get an accurate look at transportation GHG emissions just for Corvallis. Also, it is understood that transportation fuels reporting protocols are not as precise as they would like; however, it is understood that the fuel sales data will have to suffice to get an emissions profile to make local policy decisions on GHGs from land-use and transportation. It is recommended that since transportation fuels are not included in this phase of reporting it should definitely be addressed in the next phase.

Patricia Daniels Corvallis City Council Member presented both written and oral testimony.

Is in support of the rulemaking; however, requests two additional considerations for the rules. First, would like a publicly available tracking system by community for GHGs so that communities could gather baseline emissions and learn about other types of baselines. Transportation fuels should be added to the rules since they are a major source of GHG emissions. Gas tax information on station by station basis should be added to the database of other GHG emitters. Corvallis would like to partner with DEQ to achieve the goals of GHG reductions that would benefit not just Oregonians but the whole planet.

Annette Mills Citizen presented oral testimony only.

Strong state reporting protocols are needed to help local government and communities to determine their greenhouse gas emissions and progress towards greenhouse gas reductions. The reporting protocols are an essential tool to assist us.

Transportation fuels should be included in the scope of the GHG rules. Energy and transportation make up 80% of GHG emissions in Oregon, so clear and simple reporting protocols are essential in these two areas.

May 15, 2008 in Portland, Oregon

Thane Jennings Plant Engineer, Hermiston Power Partners Calpine Corp., presented both written and oral testimony.

It is critical that GHG reporting be consistent from state to state and agency to agency because Calpine operates in 18 states. Main objection to rule is that it is not specific enough and does not spell out how GHG emissions should be calculated. Calpine urges DEQ to adopt one of the existing protocols for calculating emissions and include it in the rule.

The proposed DEQ rules ignore the recommendations of the greenhouse gas advisory committee which had specific recommendations for reporting GHGs (Chapter 5, pages 38-44 of the GHGRAC Workgroup Report). GHGRAC provided a laundry list of items and those items were ignored by these proposed rules. Calpine does not have a lot of hope that their comments will be heard and acted on since DEQ ignored the recommendations of the GHGRAC.

Calpine is also concerned about how the early action credits will be treated in the rules. Calpine spent a substantial amount of money, \$4 million dollars, to The Climate Trust to offset 17% of CO₂ emissions at their facility, annually over a 30 year period. This percentage has increased to 50% some years based on their annual operating hours being less than 8760 and want recognition or credit for reductions. The Climate Trust will provide rule language in a written response on this rule.

Mobile sources total about 40% of Oregon's GHGs and they are also the fastest growing of statewide emissions. They are projected to grow 33% by 2025. The fact that the proposed rules do not include transportation and only focuses on permitted sources demonstrates that it will fall short of achieving any significant benefit for the environment.

The proposed rules are premature and offer an incomplete and unsophisticated approach for a complicated problem. Recommend delaying rules until WCI releases their recommendations and that any future rulemaking takes into account others who have put the effort into developing protocols and have already offset greenhouse gases.

Mike Dubrasich Executive Director of Western Institute for Study of the Environment presented both written and oral testimony.

Greenhouse gas emissions from forest fires in Oregon surpass all other emission sources. Estimated 48 to 56 teragrams per year of carbon dioxide was emitted by forest fires in 2006 and 2007. Commenter provided calculations comparing the GHG emissions output from forest fires to the number of automobiles it would take, driven annually, to generate equivalent GHGs emitted by fires. Both years (2006 and 2007) resulted in approximately 10 and 11 million cars respectively driven for a whole year to generate 48 to 56 teragrams released by wildfires.

Reduction in forest fire acreage and biomass consumption by forest fires is the single most effective and efficient way to reduce greenhouse gas emissions in Oregon. It is recommended that DEQ use the Forest Carbon and Emissions Model (FCEM) to more accurately estimate greenhouse gas emissions from forest fires.

DEQ should exercise its authority to insure restoration forestry is implemented on Oregon's Federal forests. Restoration forestry, including active management that decreases wildfire acreage and reduces above-ground biomass and fire intensities, would significantly reduce greenhouse gas emissions from Oregon wildfires. At a minimum, greenhouse gas emissions from Federal wildfires should be estimated using the best and most modern analytical tools, so that DEQ rule violations and destruction of Oregon natural resource values can be better monitored.

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Relationship to Federal Requirements

RULE CAPTION

GREENHOUSE GAS MANDATORY REPORTING RULES

The Oregon Department of Environmental Quality is proposing rules that would require sources to report greenhouse gas emissions to DEQ.

Answers to the following questions identify how the proposed rulemaking relates to federal requirements and potential justification for differing from, or adding to, federal requirements. This statement is required by OAR 340-011-0029(1).

1. Is the proposed rulemaking different from, or in addition to, applicable federal requirements? If so, what are the differences or additions?

The proposed rulemaking would impose requirements that are in addition to federal requirements. The proposal would require specified sources to report their greenhouse gas emissions annually to DEQ. There is no comparable federal reporting requirement.

Congress enacted an appropriations bill in December 2007 that requires EPA to develop federal reporting rules within 18 months. According to the appropriations bill language, these rules will not be completed until at least June 2009 and it is not known what will be required under EPA rules.

The Clean Air Act Title IV (Acid Rain Program) requires that certain affected sources that are required to obtain an Acid Rain Permit must report carbon dioxide emissions as well as sulfur dioxide and nitrogen oxide emissions to EPA quarterly. The proposed rulemaking requires these sources to report additional greenhouse gas emissions to DEQ.

2.If the proposal differs from, or is in addition to, applicable federal requirements, explain the reasons for the difference or addition (including as appropriate, the public health, environmental, scientific, economic, technological, administrative or other reasons).

Global warming poses a serious threat to the economic well-being, public health, natural resources and environment of Oregon. Governor Kulongoski has developed an aggressive agenda to combat global warming over the past five years, and several initiatives are underway to reduce greenhouse gas emissions in Oregon. Greenhouse gas

emissions reporting is necessary to track changes in greenhouse gas emissions and to design greenhouse gas emission reduction initiatives.

The Intergovernmental Panel on Climate Change Fourth Assessment Report (2007)¹ states with “very high confidence” that human activities have led to global warming, which has led to increases in global average air and ocean temperatures, widespread melting of snow and ice, and rising global average sea level. Other changes include warmer and fewer cold days and nights over most land areas; warmer and more frequent hot days and nights over most land areas; and heavy precipitation events.

The impacts of climate change in the Northwest were summarized in the *Oregon Strategy for Greenhouse Gas Reductions*². This report includes a Scientific Consensus Statement on the Likely Impacts of Climate Change on the Pacific Northwest, signed by 50 Ph.D.-level scientists with expertise on the impacts of climate change in the Pacific Northwest. These scientists predict coastal and river flooding, snow pack declines, lower summer river flows, impacts to farm and forest productivity, energy cost increases, public health effects, and increased pressures on many fish and wildlife species if current greenhouse gas emission trends continue.

3.If the proposal differs from, or is in addition to, applicable federal requirements, did the Department consider alternatives to the difference or addition? If so, describe the alternatives and the reason(s) they were not pursued.

DEQ did consider several alternatives and discussed them with the Greenhouse Gas Reporting Advisory Committee. Some of these alternatives, and the reasons why they were not pursued, include the following:

- (a) Reporting from Electric, Gas and Other Energy Sources: DEQ considered whether to require persons who generated, imported or sold electricity to report emissions generated outside of Oregon for electricity that serves the Oregon retail load, and whether to require consumer-owned utilities to report those emissions, but rejected this option because of potential uncertainties in legal authority. DEQ also considered whether to require persons that distribute heating fuels in Oregon to report emissions from fuels sold, but rejected this option because of potential uncertainties in legal authority. The rules encourage these sources to report voluntarily.
- (b) Reporting from Sources that are not Energy Sector Sources: DEQ considered whether to include or exclude emissions from categorically insignificant activities and the proposed rules exclude them based on GHGRAC recommendations and because exclusion of categorically

¹ IPCC, 2007, Summary for Policymakers. In: *Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* [Solomon, S, D. Qin, M. Manning, Z. Chan, M. Marquis, K.B. Averyt, M. Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

² Governor’s Advisory Group on Global Warming, State of Oregon, December 2004

insignificant emissions would exclude many very small businesses from the reporting requirements. DEQ also considered whether to include all sources that are required to obtain Air Contaminant Discharge Permits to report, and the proposed rules narrow down the type of air contamination sources required to report based on the source categories' likelihood of emitting greenhouse gases. DEQ also considered whether to phase in certain source categories, and the proposed rules phase in non-air-permitted sources in the second year.

(c) Emissions Accounting. DEQ considered various emissions accounting methodologies and GHGRAC recommended consistency with The Climate Registry (an organization that is establishing reporting protocols to assure consistency in quantification approaches across North America) or other industry-appropriate protocols. DEQ also considered whether persons required to report should report directly to a third party entity (The Climate Registry), but rejected this option because of potential uncertainties in legal authority. The proposed rules follow GHGRAC recommendations for the data to be submitted to DEQ and the Lane Regional Air Protection Agency. Persons required to report may also voluntarily submit data directly to The Climate Registry. DEQ is working with The Climate Registry to make this option available to sources that wish to use it.

(d) Mobile Source Emissions. DEQ and GHGRAC considered whether to require reporting from indirect mobile source emissions, including fleets. The GHGRAC recognized the importance of capturing motor vehicle fleet information, but recognized the complexities of implementing mandatory reporting at this time, particularly for sources that are not currently required to report emissions to DEQ and LRAPA. The GHGRAC recommended that, in addition to collecting comprehensive data on fuel consumption for inventory and benchmarking purposes, and collecting comprehensive vehicle miles traveled and statewide vehicle data for mobile source modeling purposes, DEQ convene a mobile source task force in September 2008 to make recommendations regarding reporting rules for fleets and other mobile emissions sources, including an emissions threshold, and to make recommendations to the Legislature as needed. DEQ followed GHGRAC recommendations and the proposed rules do not require reporting of mobile source emissions, although the proposed rules encourage sources to report these emissions voluntarily.

(e) Verification. DEQ and GHGRAC considered whether persons required to report must have their emissions data verified by a third party, but rejected this option because GHGRAC recommended relying on existing verification methods (e.g. self-certification with periodic inspections by DEQ and LRAPA inspectors).

(f) Agriculture and Forestry. DEQ and GHGRAC considered whether to require persons in the agriculture and forestry sectors to report greenhouse gas emissions. DEQ followed GHGRAC recommendations to not include these sectors at this time, unless the sources are required to obtain a Title V or Air Contaminant Discharge Permit or meet other applicability requirements in the proposed rule. DEQ will follow GHGRAC recommendations to discuss reporting with the Oregon Departments of Agriculture and Forestry, and to ask these agencies for additional data that would improve the top-down statewide emissions inventory for these categories of sources.

DEPARTMENT OF ENVIRONMENTAL QUALITY
Chapter 340
Proposed Rulemaking
STATEMENT OF NEED AND FISCAL AND ECONOMIC IMPACT

Greenhouse Gas Mandatory Reporting Rules

This form accompanies a Notice of Proposed Rulemaking

Title of Proposed Rulemaking	Greenhouse Gas Mandatory Reporting Rules
Statutory Authority or other Legal Authority	ORS 468A.050
Statutes Implemented	ORS 468 & ORS 468A
Need for the Rule(s)	On July 17, 2007, Governor Kulongoski asked the Environmental Quality Commission to consider adopting a greenhouse gas mandatory reporting rule as soon as possible. The rule is needed to gain a better understanding of the sources of greenhouse gas emissions in Oregon, and to track progress toward meeting greenhouse gas emission reduction goals. The objective of the mandatory reporting rules is to define who will report and how the data will be reported to DEQ and the citizens of Oregon.
Documents Relied Upon for Rulemaking	<ul style="list-style-type: none"> • Greenhouse Gas Reporting Advisory Committee, Final Recommendations and Final Workgroup Report, December 2007 • Letter from Governor Kulongoski to the Environmental Quality Commission, July 17, 2007 • Western Climate Initiative Memorandum of Agreement, February 2007
Requests for Other Options	Pursuant to ORS 183.335(2)(b)(G), DEQ requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.
Fiscal and Economic Impact, Statement of Cost Compliance	
Overview	<p>The proposed rules could have a fiscal and economic impact on:</p> <ul style="list-style-type: none"> • Approximately 136 facilities in Oregon that are permitted under the Air Quality Division's Title V Permit Program, • Approximately 426 facilities in Oregon that are permitted under the Air Quality Division's Air Contaminant Discharge Permit program, • Other sources that are not required to obtain an air permit, if their greenhouse gas emissions are 2500 metric tons or more of carbon dioxide equivalent per year. <ul style="list-style-type: none"> ○ Of these, some are required to obtain other DEQ permits. DEQ has identified at least two solid waste disposal facilities that may be impacted by the proposed rules. ○ DEQ has identified approximately 133 individual National Pollutant Discharge Elimination System that may be impacted by the proposed rules. ○ An unknown number of other sources such as electric generating units and electricity and natural gas transmission and distribution systems that emit 2500 metric tons or more of carbon dioxide equivalent and are not currently permitted under any DEQ permit programs.
Impacts to General Public	DEQ does not anticipate any direct fiscal or economic impacts to the public by the proposed rules. However, indirect fiscal or economic impacts to the public may occur through increased

	<p>prices for services or products as a result of increased cost associated with reporting of greenhouse gas emissions. DEQ expects any such price increases to be extremely small, and lacks available information upon which it could estimate actual potential increases.</p>													
<p>Impacts to Small Business (50 or fewer employees – ORS183.310(10))</p>	<p>Approximately 481 sources could be financially impacted directly by these proposed rules. Although there are no fees required for reporting at this time, these rules will require sources with and without air permits to comply with new reporting requirements. These new requirements include data collection and analysis, recordkeeping, and other annual administrative activities. DEQ proposes to combine mandatory greenhouse gas reporting with existing reporting as much as possible, although sources that do not have air permits may need to report their greenhouse gas emissions separately from existing reporting requirements in other DEQ programs.</p>													
<p>Cost of Compliance on Small Business (50 or fewer employees – ORS183.310(10))</p>	<p>a) Estimated number of small businesses subject to the proposed rule</p>	<table border="1" data-bbox="753 554 1468 961"> <thead> <tr> <th data-bbox="753 554 1094 646">Permitted & Non-permitted Sources</th> <th data-bbox="1094 554 1468 646">Estimated Number of Small Business Sources Subject to Proposed Rule</th> </tr> </thead> <tbody> <tr> <td data-bbox="753 646 1094 680">Title V</td> <td data-bbox="1094 646 1468 680">28</td> </tr> <tr> <td data-bbox="753 680 1094 714">ACDP</td> <td data-bbox="1094 680 1468 714">372</td> </tr> <tr> <td data-bbox="753 714 1094 772">Non-Air Permitted Landfills</td> <td data-bbox="1094 714 1468 772">2</td> </tr> <tr> <td data-bbox="753 772 1094 928">Non-Air Permitted: 1) Industrial wastewater treatment</td> <td data-bbox="1094 772 1468 928">79</td> </tr> <tr> <td data-bbox="753 928 1094 961">Total Sources</td> <td data-bbox="1094 928 1468 961">481</td> </tr> </tbody> </table> <p>DEQ estimates approximately 481 small business sources will be subject to reporting their greenhouse gases on an annual basis.</p>	Permitted & Non-permitted Sources	Estimated Number of Small Business Sources Subject to Proposed Rule	Title V	28	ACDP	372	Non-Air Permitted Landfills	2	Non-Air Permitted: 1) Industrial wastewater treatment	79	Total Sources	481
Permitted & Non-permitted Sources	Estimated Number of Small Business Sources Subject to Proposed Rule													
Title V	28													
ACDP	372													
Non-Air Permitted Landfills	2													
Non-Air Permitted: 1) Industrial wastewater treatment	79													
Total Sources	481													
	<p>b) Types of businesses and industries with small businesses subject to the proposed rule</p>	<p>There are several types of businesses and industries with small businesses that will be affected by the proposed rules. These may include asphalt manufacturing, ammonia manufacturing, chemical manufacturing, coffee roasting manufacturing, commercial bakeries, commercial boilers, educational institutions, electric power generation, furniture manufacturing, food processing, hospitals, iron and steel, natural gas and oil production and processing, petroleum refining, pipe coaters, pulp and paper, sewage treatment facilities, synthetic resin manufacturing, and wood products manufacturing.</p>												
	<p>c) Projected reporting, recordkeeping and other administrative activities required by small businesses for compliance with the proposed rule, including costs of professional services</p>	<p>The proposed rules will require additional reporting, recordkeeping, and other administrative activities for small businesses. These activities include but are not limited to:</p> <ul style="list-style-type: none"> • Initial and ongoing training on emissions accounting and quantification methodologies; • Emissions data collection and analysis for greenhouse gases, annually; and • Preparation and submittal of completed registration and reporting forms annually. <p>This will result in additional costs to affected sources to comply with these rules. Sources that already report air quality data to DEQ may have lower costs of reporting GHG emissions than sources not otherwise required to report data to DEQ.</p> <p>For sources that currently report air quality data, DEQ estimates that initial set up may require about one 8-hour day. Annual reporting of the data may require ½ day (4 hours) per year. The</p>												

		<p>total estimated cost, assuming an hourly wage of \$50/hour, would be \$400 for initial set-up of the GHG reporting system and \$200 per year on an ongoing basis.</p> <p>For sources not currently reporting air quality data, DEQ estimates that initial set up may require about two weeks (80 hours). Annual reporting of the data may require ½ day (4 hours) per year. The total estimated cost, assuming an hourly wage of \$50/hour, would be \$4,000 for initial set-up of the GHG reporting system and \$200 per year on an ongoing basis. Sources that currently report other environmental data to DEQ may experience less costs for setting up and reporting greenhouse gas emissions.</p>										
	<p>d) The equipment, supplies, labor, and increased administration required by small businesses for compliance with the proposed rule</p>	<p>Small businesses may encounter additional costs for equipment (such as a computer) and labor for setting up and reporting their greenhouse gas emissions, which will vary by business. Many of these businesses are already reporting air quality data to DEQ, which may minimize the need for additional equipment and labor. DEQ is not proposing any additional monitoring requirements for greenhouse gases. DEQ does not have adequate information at this time to estimate the amount of additional equipment and labor (apart from estimates in (c) above) and any such estimate would be speculation.</p>										
	<p>e) A description of the manner in which DEQ involved small businesses in the development of this rulemaking</p>	<p>DEQ has involved small businesses in the development of this rulemaking through the Greenhouse Gas Rulemaking Advisory Committee. While only one member represented a small business, other members represented organizations that have small business as members or clients. DEQ utilized its On-line Subscription Delivery notices (over 200 people are on the email subscription list) for each advisory committee meeting. DEQ staff prepared articles in the <i>Oregon Insider</i> newsletter, and participated in five conferences in the Portland area informing people about the rulemaking. These conferences were attended by representatives from large and small businesses.</p>										
<p>Impacts to Large Business (all businesses that are not “small businesses” under ORS183.310(10))</p>	<table border="1"> <thead> <tr> <th data-bbox="391 1224 743 1318">Permitted & Non-permitted Sources</th> <th data-bbox="743 1224 1547 1318">Estimated Number of Large Business Sources Subject to Proposed Rule</th> </tr> </thead> <tbody> <tr> <td data-bbox="391 1318 743 1350">Title V</td> <td data-bbox="743 1318 1547 1350">107</td> </tr> <tr> <td data-bbox="391 1350 743 1381">ACDP</td> <td data-bbox="743 1350 1547 1381">16</td> </tr> <tr> <td data-bbox="391 1381 743 1476">Non-Air Permitted: Industrial wastewater treatment</td> <td data-bbox="743 1381 1547 1476">3</td> </tr> <tr> <td data-bbox="391 1476 743 1507">Total Sources</td> <td data-bbox="743 1476 1547 1507">126</td> </tr> </tbody> </table>	Permitted & Non-permitted Sources	Estimated Number of Large Business Sources Subject to Proposed Rule	Title V	107	ACDP	16	Non-Air Permitted: Industrial wastewater treatment	3	Total Sources	126	<p>DEQ estimates that approximately 126 sources are large businesses that could be fiscally and economically impacted by the proposed rule.</p> <p>Although the proposed rules do not impose a fee at this time, they will require additional reporting, recordkeeping, and other administrative activities for large businesses. These activities include but are not limited to:</p> <ul style="list-style-type: none"> • Initial and ongoing training on emissions accounting and quantification methodologies; • Emissions data collection and analysis for greenhouse gases, annually; and • Preparation and submittal of completed registration and reporting forms annually. <p>This will result in additional costs to affected sources to comply with these rules. Sources that already report air quality data to DEQ may have lower costs of reporting GHG emissions than sources not otherwise required to report data to DEQ.</p>
Permitted & Non-permitted Sources	Estimated Number of Large Business Sources Subject to Proposed Rule											
Title V	107											
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	<p>For sources that currently report air quality data, DEQ estimates that initial set up may require about one 8-hour day. Annual reporting of the data may require ½ day (4 hours) per year. The total estimated cost, assuming an hourly wage of \$50/hour, would be \$400 for initial set-up of the GHG reporting system and \$200 per year on an ongoing basis.</p> <p>For sources not currently reporting air quality data, DEQ estimates that initial set up may require about two weeks (80 hours). Annual reporting of the data may require ½ day (4 hours) per year. The total estimated cost, assuming an hourly wage of \$50/hour, would be \$4,000 for initial set-up of the GHG reporting system and \$200 per year on an ongoing basis. Sources that currently report other environmental data to DEQ may experience less costs for setting up and reporting greenhouse gas emissions.</p>									
<p>Impacts to Local Government</p>	<table border="1"> <thead> <tr> <th data-bbox="391 583 769 674">Types of Government Sources</th> <th data-bbox="769 583 1180 674">Estimated Number of Local Government Sources Subject to Proposed Rule</th> </tr> </thead> <tbody> <tr> <td data-bbox="391 674 769 709">City</td> <td data-bbox="769 674 1180 709">70</td> </tr> <tr> <td data-bbox="391 709 769 745">County</td> <td data-bbox="769 709 1180 745">7</td> </tr> <tr> <td data-bbox="391 745 769 772">Total Sources</td> <td data-bbox="769 745 1180 772">77</td> </tr> </tbody> </table>	Types of Government Sources	Estimated Number of Local Government Sources Subject to Proposed Rule	City	70	County	7	Total Sources	77	<p>DEQ estimates that approximately 77 local government sources may be fiscally or economically impacted by the proposed rules. These sources include municipal wastewater/sewage treatment facilities, landfills, local military facilities, and public schools. Metro, the regional government in the Portland area, will be impacted because it owns a landfill that has a Title V permit and will be required to report. At this time, DEQ cannot estimate all of the local government-owned landfills that do not have permits that may be required to report. These sources are not included under the small or large business sections of this statement; however, the fiscal impacts will be the same as described in the small and large business sections above.</p> <p>Lane Regional Air Protection Agency will also experience a fiscal and economic impact as the proposed rules direct LRAPA to implement the rules within LRAPA's jurisdiction. DEQ does not have available information sufficient to estimate those impacts, and any such estimate would be speculative, although the tasks will be similar to those described under "Impacts to DEQ" below.</p>
Types of Government Sources	Estimated Number of Local Government Sources Subject to Proposed Rule									
City	70									
County	7									
Total Sources	77									
<p>Impacts to State Agencies Other Than DEQ</p>	<p>31 state agency sources that have air permits may be affected by the proposed rule including the Oregon Department of Corrections, Oregon Military Department, the Oregon State Hospital, and Oregon University System. Estimated fiscal impacts will be the same as described in the small and large business sections above.</p> <p>The GHG mandatory reporting rule is a multi-agency effort. The Oregon Department of Energy and the Public Utility Commission are assisting DEQ in the development of the GHG mandatory emissions reporting rules. They are not directly impacted by this rule but may be impacted if they continue assisting DEQ during implementation. DEQ does not have available information sufficient to estimate those impacts, and any such estimate would be speculative.</p>									
<p>Impacts to DEQ</p>	<p>Implementation of Proposed Reporting Rule: DEQ will work closely with the ODOE and PUC, and if applicable, The Climate Registry to set up the system to collect data and ensure compliance with the mandatory greenhouse gas reporting rules. DEQ proposes to combine mandatory greenhouse gas reporting with existing reporting as much as possible. The proposed rules will fiscally and economically impact DEQ by requiring DEQ to perform the following tasks (which will mitigate impacts to all other affected sources):</p> <ul style="list-style-type: none"> • Develop calculation methodologies and emission factors; • Develop reporting guidance and calculation tools; • Modify or create emissions reporting forms for greenhouse gas emissions; • Modify existing DEQ databases or develop a new database to store and retrieve the data, or contract with TCR to modify their software or build interface for TCR to store the data; 									

	<ul style="list-style-type: none"> • Create industry-specific notification letters, and set up a training schedule; • Notify sources subject to reporting prior to the beginning of the initial reporting year; • Train sources subject to reporting, and provide technical assistance, prior to the beginning of the initial reporting year; • Develop a website with information regarding GHG emission reporting requirements, resources and links; • Modify permits to include these requirements as permits are modified or renewed, or initiate a one time administrative amendment to modify permits; • Review and verify annual greenhouse gas reports and ensure compliance with reporting rules; • Prepare greenhouse gas emissions inventory and report to the Oregon Department of Energy; • Maintain DEQ Greenhouse Gas Reporting website; and • Maintain computer software and update guidance and forms as needed. <p>During the current biennium DEQ intends to delay other work including some of its pollution reduction work and shift resources to cover the costs of developing the reporting program.</p>
Assumptions	<p>This statement assumes that DEQ will develop and implement the reporting program according to the Greenhouse Gas Reporting Advisory Committee, Final Recommendations and Final Workgroup Report, December 2007. DEQ relied upon feedback from the advisory committee to develop estimates of fiscal impacts on small and large businesses. DEQ's air quality program estimated the number of solid waste disposal facilities that may be required to report based on previous modeling estimates. DEQ's air quality program estimated the number of wastewater treatment facilities that may be required to report based on an assumption that one million gallons per day of flow would emit 2500 metric tons of greenhouse gas emissions.</p>
Housing Costs	<p>DEQ estimates that the proposed rule will have no effect on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel.</p>
Administrative Rule Advisory Committee	<p>DEQ convened an advisory committee to make recommendations on how the Greenhouse Gas Mandatory Reporting Program might be implemented. On October 1, the Director of DEQ appointed Chair Mark Reeve and 17 members representing various stakeholder interests. The Committee met four times between October 17 and December 17, 2007. The Committee also appointed two subcommittees to make recommendations on two issues related to mandatory reporting: Electric Utilities, and Indirect Mobile Source Emissions. The committee agreed upon recommendations for all aspects of the proposed Greenhouse Gas Mandatory Reporting Program and these recommendations are reflected in the proposed rules. The advisory committee recommendations are available upon request.</p> <p>GHGRAC reviewed whether the rule will have a fiscal impact, what the extent of impact will be, and whether the rule will have a significant impact on small business at their February 7, 2008 meeting. GHGRAC said the impact will depend on how DEQ implements the rule and that there would likely be a significant adverse impact only if DEQ doesn't provide assistance (as outlined in the above) to sources during implementation. They recommended that if DEQ performs the tasks listed above it will reduce the economic impact on small businesses.</p>

_____/s/_____
 Prepared by

Brandy M. Albertson
 Printed name

4/1/2008
 Date

_____/s/_____
 Approved by DEQ Budget Office

James Roys
 Printed name

4/1/2008
 Date

State of Oregon
DEPARTMENT OF ENVIRONMENTAL QUALITY

Land Use Evaluation Statement

GREENHOUSE GAS MANDATORY REPORTING RULES

The Oregon Department of Environmental Quality is proposing rules that would require sources to report greenhouse gas emissions to DEQ.

1. Explain the purpose of the proposed rules.

On July 17, 2007, Governor Kulongoski asked the Environmental Quality Commission to consider adopting a greenhouse gas mandatory reporting rule as soon as possible. The rule is needed to gain a better understanding of the sources of greenhouse gas emissions in Oregon, and to track progress toward meeting greenhouse gas emission reduction goals.

The Oregon Department of Environmental Quality is proposing rules that would require sources to report greenhouse gas emissions to DEQ. The proposed rules require all sources in Oregon that are required to obtain permits under the Title V Operating Permit Program, and certain sources that are required to obtain permits under the Air Contaminant Discharge Permit Program, to report their emissions beginning with the 2009 reporting year. The proposed rules also require certain solid waste disposal facilities, wastewater treatment facilities, electric generating units and electricity transmission and distribution systems, that emit 2500 metric tons or more of greenhouse gases per year, to report their emissions beginning with the 2010 reporting year.

2. Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination (SAC) Program?

Yes X No _____

a. If yes, identify existing program/rule/activity:

The proposed rules will affect existing DEQ permitting program rules that are considered land use programs (OAR Chapter 340, Divisions 45, 93-96, 216 and 218).

b. If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules?

Yes X No _____ (if no, explain):

Existing procedures already adequately cover these new rule impacts. The proposed rules will require additional data collection and reporting, but the requirements for the permitting of these activities and the review of their land use impacts remain unchanged.

c. If no, apply the following criteria to the proposed rules.

Staff should refer to Section III, subsection 2 of the SAC document in completing the evaluation form. Statewide Goal 6 - Air, Water and Land Resources is the primary goal that relates to DEQ authorities. However, other goals may apply such as Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources; Goal 11 - Public Facilities and Services; Goal 16 - Estuarine Resources; and Goal 19 - Ocean Resources. DEQ programs and rules that relate to statewide land use goals are considered land use programs if they are:

1. Specifically referenced in the statewide planning goals; or
2. Reasonably expected to have significant effects on
 - a. resources, objectives or areas identified in the statewide planning goals, or
 - b. present or future land uses identified in acknowledged comprehensive plans.

In applying criterion 2 above, two guidelines should be applied to assess land use significance:

- The land use responsibilities of a program/rule/action that involved more than one agency, are considered the responsibilities of the agency with primary authority.
- A determination of land use significance must consider the Department's mandate to protect public health and safety and the environment.

In the space below, state if the proposed rules are considered programs affecting land use. State the criteria and reasons for the determination.

3. **If the proposed rules have been determined a land use program under 2. above, but are not subject to existing land use compliance and compatibility procedures, explain the new procedures the Department will use to ensure compliance and compatibility.**

N/A