
Date: Nov. 12, 2020

To: Environmental Quality Commission

From: Richard Whitman, Director
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Subject: Item C: Proposed Advisory Committee for Greenhouse Gas Rulemaking (Action)
Nov. 19-20, 2020, EQC meeting

Why this is important DEQ will initiate rulemaking late in 2020 to develop a proposed program for consideration by the EQC in late 2021 to reduce greenhouse gas emissions. The purpose of this rulemaking is to establish broad limits on greenhouse gas emissions across different sectors of Oregon's economy. This rulemaking is based on existing statutory authority given to the commission to control emissions of air pollution in Oregon.

One of the ways that DEQ will gather input on the development of this program for the commission is through the regular Oregon process for rulemaking. That process includes convening a rules advisory committee (RAC) that can help provide input to the department and the commission on the proposed program. The RAC provides policy makers, like the commission, a range of views on policy proposals, including potential impacts and options for how policies are designed. Selection of a RAC is usually delegated to the DEQ director. In this case, however, DEQ is requesting that the commission review DEQ's proposed roster for the RAC, and confirm or adjust the RAC membership as it deems appropriate.

DEQ recommendation and proposed EQC motion DEQ recommends that the commission appoint a rules advisory committee for the Cap and Reduce Program rulemaking, as listed on pages four and five of this staff report.

Proposed motion language:

"I move that the Oregon Environmental Quality Commission appoint the individuals listed on pages four and five of the staff report as the rules advisory committee for the rulemaking to establish the Cap and Reduce Program."

Background Over the coming year, DEQ is conducting a rulemaking to develop proposed rules that, if approved by the commission, will establish a regulatory program to limit and reduce greenhouse gas emissions from certain sectors of activity in Oregon. The proposed rules will rely on authority already granted by the Oregon legislature to the commission to control air pollution. The proposed rules, along with other complementary actions by DEQ, the commission, and by other agencies and parties can significantly reduce greenhouse gas emissions in Oregon so that the state does its part to avoid the worst effects of climate change. Collectively, these actions can put large parts of Oregon’s economy on a pathway to a lower-carbon future.

DEQ and EQC are developing rules that “cap and reduce” greenhouse gas emissions from broad sectors of Oregon’s economy, including large stationary emitters, transportation fuels, and other fossil fuels such as natural gas. This effort will consider establishment of broad sectoral limits or “caps” over emissions in these sectors, and “reduce” those limits over time.

DEQ is working to bring proposed rules to the commission in late 2021, so that the commission can act quickly to adopt final program designs. This is an ambitious timeline for establishing a new program or programs that, if adopted, will be both broad and complex. Such a proposal will touch many different parts of Oregon and may involve regulating a diverse range of businesses. The proposed rules will also need to address challenging policy topics such as how to effectively implement broad sectoral emission limits across a range of different sources, how quickly reductions are required, what the options are for complying with emissions limits that decline over time, what the effects of reduced greenhouse gas emissions are on public health, transportation, and costs to consumers, and how the program or programs can address the interests and concerns of Oregon communities disproportionately affected by pollution and climate change. Appointment of the RAC members to support this rulemaking is an important step for the commission.

Purpose of Rulemaking Advisory Committee Oregon’s Administrative Procedures Act describes the required minimum elements of administrative rulemaking in Oregon. State agencies are encouraged to seek public input through rules advisory committees and, in certain situations, agencies are required to use such committees as a source of input concerning the projected fiscal impacts of rules. A RAC can help DEQ

and the commission understand diverse perspectives on policy questions, as well as help inform more technical questions involved in new rules.

For this rulemaking, DEQ expects the RAC to meet at least once a month beginning in January 2021 through early fall of 2021. Additional meetings may be needed from workgroups or subgroups that focus on specific parts to the proposed rules.

The work of the committee will include:

- Making recommendations on program and policy options
- Reviewing, evaluating and suggesting draft rule language
- Evaluating the fiscal, environmental and public health implications of draft rules

ORS 183.333 requires that DEQ ask the RAC to consider the fiscal and economic impact of the proposed rules, including:

- Whether the rules will have a fiscal impact, and if so, what the extent of that impact will be.
- Whether the rules will have a significant adverse impact on small businesses, and if so, how DEQ can reduce the rules' negative fiscal impact on small businesses.

Recognizing the complexity, breadth, and potential impacts of this program, DEQ does not intend to seek consensus recommendations from the committee, and generally will not ask the committee for formal votes on issues. Instead, DEQ will ask for input from the individual committee members, and assess the committee's overall level of support or concern with proposed policy concepts. The committee's discussions will inform the development of draft rules, which will then be proposed for broader public review and comment as part of the rulemaking process. DEQ will document the input received by the committee to share with the commission.

Public engagement throughout this process will also be important for informing the rules DEQ will propose to the commission. Public input will be solicited at each meeting of the RAC. DEQ also expects to convene additional stakeholder discussions on specific elements of the rules, including engagement with frontline communities and consideration of environmental justice issues. DEQ also has begun, and will continue, government-to-government engagement with Oregon's tribes. Additionally,

DEQ will hold a formal written comment period on the draft rules, as well as one or more public hearings. DEQ will consider comments received and adjust the proposal as appropriate before bringing the proposal to the commission for its final consideration.

**Principles
for selecting
RAC
members**

DEQ received 84 applications from parties interested in serving on the Rules Advisory Committee. DEQ staff reviewed the group of individuals, and developed a proposed roster for the RAC based on the core principles discussed with EQC in September 2020:

- **Size** - large enough to reflect most or all perspectives, but small enough so that members have ample opportunity to speak;
- **Balance** - a balance of interest so that no one perspective dominates, and a full range of opinions is well-reflected;
- **Capacity** - some RAC members will have more capacity and resources to participate, particularly over time, than others; structuring the RAC to account for and not exacerbate any inequities is important.

Staff also considered the following factors in developing this proposal:

- Prioritize Oregon-based organizations, companies and associations
- Recognize the degree to which individuals engaged in DEQ's scoping-phase activities over this summer and fall (workshops, town-hall meetings, agency meetings etc.) or otherwise would bring particular desirable expertise to the committee.

**Proposed
Rules
Advisory
Committee
members**

DEQ proposes the following membership for the Cap and Reduce Program Development Rules Advisory Committee:

- Nora Apter (Oregon Environmental Council)
- Zach Baker (Climate Solutions)
- Pam Barrow (Food Northwest)
- Peter Brandom (Hillsboro and League of Cities)
- Rebecca Descombes (Native American Youth and Family Center)
- Darren Engle (Pacific Propane Gas Association)
- Taren Evans (Coalition of Communities of Color)
- Mike Freese (Oregon Fuels Association)
- Brendon Haggerty (Multnomah County Health Department)
- John Hillock (Wallowa County)
- Bob Jenks (Citizens Utility Board)
- Nels Johnson (Northwest Natural)
- Dan Kirschner (Northwest Gas Association)

- Dylan Kruse (Sustainable Northwest)
- Casey Kulla (Yamhill County)
- Jan Lee (Oregon Association of Conservation Districts)
- Oriana Magnera (Verde)
- Tim Miller (Oregon Businesses for Climate)
- Sharla Moffett (Oregon Business and Industry)
- Martha Moore (EVRAZ)
- Mark Petrie (Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians)
- Ellen Porter (Roseburg Forest Products)
- Don Sampson (Affiliated Tribes of Northwest Indians)
- Amy Schlusser (Green Energy Institute)
- Haley Scott-Case (NAACP Eugene-Springfield and Beyond Toxics)
- Steve Smith (Philips 66)
- Paul Snyder (Tillamook Creamery Association)
- Alyn Spector (Avista and Cascade)
- Jeff Stone (Association of Nurseries)
- Kathryn VanNatta (NW Pulp & Paper)
- Ranfis Villatoro (BlueGreen Alliance)
- Keith Wilson (Titan Freight)

**Options for
commission
action**

DEQ requests that the commission approve the proposed membership list as shown above; however, the commission may make changes to the proposed membership as part of its deliberation and action. The commission may:

- Approve the membership list as outlined this in staff report;
- Approve the membership list with amendments, as discussed at the commission meeting;
- Decline to approve a membership list and direct DEQ to re-propose a membership list with amendments, as discussed at the meeting or with additional direction from EQC, at a specified date.

**Next steps
and EQC
involvement**

Once the commission approves a membership list, DEQ will convene the Rules Advisory Committee and begin work on the rules and policy proposals on the timeline discussed in this report. DEQ will provide updates on committee engagement, discussions and other milestones within the process through the Director's report at commission meetings or other communications.

Report prepared by Colin McConnaha
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