
Date: Sept. 27, 2021

To: Environmental Quality Commission

From: Richard Whitman, Director
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Subject: Item G: Update on Climate Protection Program rulemaking (Informational)
Sept. 30-Oct. 1, 2021, EQC meeting

Why this is important

DEQ is developing proposed rules for consideration by the Environmental Quality Commission that would establish Oregon's Climate Protection Program. DEQ released the [Notice of Proposed Rulemaking and Draft Rule](#) for the Climate Protection Program on Aug. 5, 2021.

The proposed Climate Protection Program would establish an enforceable and declining limit, or cap, on greenhouse gas emissions from fossil fuels used throughout Oregon, including diesel, gasoline, natural gas, and propane, used in transportation, residential, commercial and industrial settings. The proposed Climate Protection Program also includes a program to regulate site-specific greenhouse gas emissions at certain manufacturing facilities.

DEQ is currently accepting public comments on the proposed Climate Protection Program through Oct. 4, 2021. DEQ will host a public hearing on Sept. 22, 2021. The commission will host a second public hearing on Sept. 30, 2021.

The purpose of this agenda item is to update the commission on changes staff made to the proposed rule after the commission's July meeting. These changes were made primarily in response to comments provided by the Rules Advisory Committee members following their last meeting in July. This includes changes to Community Climate Investments, the best available emissions reduction approach, and compliance instrument distribution. DEQ will also update the commission on the main topics of public comment received to date.

Prior EQC involvement

DEQ has been briefing the commission on development of this program regularly since work began more than a year and half ago. DEQ intends to continue providing regular updates so that the commission is prepared for the full package to come before the EQC in December 2021.

Rulemaking activities

DEQ began the formal rulemaking process at the beginning of 2021, following EQC appointment of the RAC in late 2020. The RAC, met seven times in 2021. The seventh and final RAC meeting was on July 8.

DEQ released the [Notice of Proposed Rulemaking and Draft Rules](#), including the notice and fiscal impact statement, proposed rules, supporting documents and a [reader's guide](#) to the rules, on Aug. 5, 2021. The deadline for public comment on the rule is Oct. 4, 2021. DEQ has received a request for a 21-day extension of the public comment period.

DEQ released [a summary](#) of the proposed Climate Protection Program to further support public comment and engagement. A summary of the anticipated next steps in the rulemaking process is presented below.

Figure 1. CPP Rulemaking Next Steps



Proposed Climate Protection Program

The proposed Climate Protection Program uses two approaches to regulating greenhouse gas emissions. The first is a declining enforceable limit, or cap, on greenhouse gas emissions from the use of most fossil fuels (but not including fossil-fueled electric generating facilities with an energy facility site certificate from the Oregon Energy Facility Siting Council (EFSC)). The second is a best available emissions reductions approach for other site-specific emissions at a limited number of facilities, such as emissions from industrial processes.

Fossil fuel suppliers subject to declining emissions caps include natural gas utilities, and suppliers of gasoline, diesel, kerosene, and propane with emissions that meet or exceed a threshold for inclusion. The threshold declines over time to cover a wider scope of emissions and suppliers, capturing

approximately 99 percent of combustion emissions from these fuels used in Oregon.

DEQ would enforce this overall cap across the many companies importing these fossil fuels for use in Oregon by requiring each company to turn in “compliance instruments”¹ in quantities that cover the emissions associated with the fossil fuels they supply. DEQ would distribute compliance instruments to fossil fuel suppliers in amounts corresponding to the overall cap each year. This assures that the total regulated emissions from the fuel suppliers do not exceed the cap.

Fossil fuel suppliers can trade unused compliance instruments or bank them for future use. This both incentivizes early emission reductions and provides flexibility for covered fossil fuel suppliers, allowing them collectively to find the lowest cost emission reductions.

Community Climate Investments is an important element of the proposed program. Covered fuel suppliers can earn CCI credits by contributing funds to third-party entities to implement projects that reduce greenhouse gas emissions in Oregon. At the start of the program, each fuel supplier may meet up to 10 percent of its compliance obligation with CCI credits, increasing to 20 percent over time.

- Covered entities can only contribute funds to DEQ-approved third parties called CCI entities.
- An equity advisory committee will assist DEQ in approving CCI entities and their projects, including advising DEQ on which CCI entities and projects would achieve the greatest benefit for communities disproportionately burdened by the effects of climate change and air contamination.
- DEQ’s priorities include achieving at least one ton of emissions reductions, on average, per CCI credit issued, as well as reducing non-greenhouse gas emissions, promoting benefits for environmental justice communities, and accelerating the transition from fossil fuels to low carbon energy sources.
- DEQ sets the CCI contribution amount in the program rules, starting at \$81 (in 2021 dollars) to earn one CCI credit. This amount increases over time.
- DEQ will evaluate CCIs every two years, including an analysis of whether one ton of emission reductions are being achieved per CCI credit issued.

¹ One compliance instrument permits supply of regulated fossil fuels that, when those fuels are combusted, emit one metric ton of greenhouse gases (in CO₂ equivalence).

The proposed rules would require implementation of site-specific emission reduction strategies for covered certain manufacturing facilities to reduce greenhouse gas emissions that DEQ would not regulate through the covered fuel suppliers. This includes emissions from industrial processes, such as cement or semi-conductor manufacturing, combustion of solid fuels, and natural gas supplied directly by interstate pipelines to facilities. DEQ estimates this site-specific component of the Climate Protection Program would cover approximately 1.7 million metric tons of emissions from 13 existing sources. This is considerably less than the approximately 30 million tons from fossil fuels that would be covered by the cap.

**EQC
involvement**

There is no request for EQC action at this time. The commission will host a public hearing on the proposed rule on Sept. 30, 2021, and DEQ intends to propose the final rules for commission consideration in December 2021.

**Supporting
materials**

1. Notice of Proposed Rulemaking and Draft Rules
www.oregon.gov/deq/Regulations/rulemaking/RuleDocuments/GHGCR2021Notice.pdf
2. Rulemaking website
www.oregon.gov/deq/Regulations/rulemaking/Pages/rghgcr2021.aspx