Oregon Department of Environmental Quality

Office of GHG Programs
Climate 2023 Rulemaking

Advisory Committee Meeting 2 Summary

May 16, 2023, 10 a.m. to 4 p.m. PT
Zoom meeting

List of attendees

Committee members in attendance

- Alex Marcucci, Trinity Consultants
- Carra Sahler, Green Energy Institute (Lewis & Clark)
- Chris Huiard, Space Age
- Irion Sanger (served as alternate for Spencer Gray), Northwest & Intermountain Power Producers Coalition (NIPPC)
- Jeremy Price, HF Sinclair
- Jim Verburg, Western States Petroleum Association (WSPA)
- Marissa Bach, Shell Trading US Company
- Michelle Detwiler, Renewable Hydrogen Alliance
- Mary Moerlins, Northwest Natural
- Mike Freese, Oregon Fuels Association
- Nora Aptor, Oregon Environmental Council
- Norma Job, Ash Grove Cement Company
- Sam Wade, Coalition for Renewable Natural Gas
- Zepure Shahumyan, PacifiCorp

DEQ Staff in attendance

- Bill Brady, Greenhouse Gas Reporting Specialist
- Colin McConnaha, Manager, Office of Greenhouse Gas Programs
- Elizabeth Elbel, Greenhouse Gas Reporting Program Manager
- Joe Westersund, Environmental Engineer
- Liz Hardee, Third Party Verification Specialist
- Matt Steele, Climate Policy Analyst
- Nicole Singh, Senior Climate Policy Advisor
- Rachel Fernandez, Greenhouse Gas Program Analyst

Agenda Item: Welcome and agenda review

Colin McConnaha reviewed meeting agenda and ground rules. The newest RAC member, Jim Verburg, WSPA introduced himself and thanked DEQ for the opportunity to serve on the committee. Rachel Fernandez reviewed the Climate 2023 rulemaking timeline and briefly introduced DEQ staff. Elizabeth Elbel provided a detailed overview of the meeting agenda.

Agenda Item: Review and discuss potential clarifications for reporting biomethane

Elizabeth outlined the plan for the biomethane discussion, in addition to the program's intention behind the proposed rule language on reporting and third-party verification of biomethane. Matt Steele illustrated the process of biomethane production from organic matter to biogas using anaerobic digestion. Matt explained that the raw biogas must be upgraded to remove the CO2 and other contaminants to produce biomethane. This biomethane is equivalent to natural gas and can be used in natural gas pipelines and delivered to homes, factories, and power stations.

When combusted, biomethane has the same carbon emissions as natural gas; however, the carbon contained in natural gas adds fossil CO2 to the atmosphere that was not there before. The carbon in biomethane is part of the natural carbon cycle. For example, the atmospheric CO2 that was initially removed during the growth of food crops and then returned to the atmosphere when the biomethane is combusted. Carbon dioxide emissions from biomethane are considered 'biogenic' emissions, which are reported differently to the GHG Reporting Program. Biomass derived fuels like biomethane do not have a compliance obligation under the Climate Protection Program, that is increased use of biomass derived fuels in place of fossil fuels is one way to comply with the program

Matt also described an alternative method of biomethane production, where waste CO2 is captured and mixed with hydrogen to create a synthetic methane product. Because the source of CO2 is a biomass or biomass-derived, the carbon is considered biogenic and resulting methane can also be considered biomethane.

DEQ provided the RAC members with an opportunity to ask clarifying questions.

Question: One member asked if DEQ had information on air quality and health hazard impacts for uncaptured biogas in Oregon and whether DEQ has information about which communities are impacted by biogas that is not captured.

Response: DEQ does not have that level of information currently; however, it is a good prompt for staff to identify any agency resources available to share with RAC members. DEQ staff also welcomes any information that RAC members may have on this subject.

Question: Another member asked if there will be consideration of cogeneration applications. These sources are not always straightforward and there could be some resulting mixture of biomethane and other biogases. Resources in practice that produce biogas often have other sources, so it has been challenging to delineate resources into clean biogas versus something else.

Response: DEQ acknowledged that while this specific topic will not be directly addressed in this meeting, the issue raised is an important consideration for this rulemaking.

Question: A member asked DEQ staff to clarify why biomethane, being functionally equivalent to fossil gas or chemically indistinguishable from fossil gas, is an allowable way for utilities to comply with the Climate Protection Program.

Response: There is no compliance obligations under the Climate Protection Program for biomethane or any biomass-derived fuels, as defined under the GHG Reporting Program (Division 215). It is staff's understanding that EQC does not have the authority to regulate biogenic emissions or biomass derived fuel. For the purposes of this rulemaking, DEQ considers this a GHG accounting question of determining delivery of biomass derived fuels are being used in place of a fossil product like natural gas.

Question: A member asked if DEQ staff plans to give background on the ranges of carbon intensity associated with different kinds of biomethane. They understand that while carbon intensity is considered in the Clean Fuels Program, it will not be relevant with compliance under the Climate Protection Program.

Response: DEQ acknowledged that there are varying carbon intensities of biomethane depending on the feedstock used; however, the GHG Reporting Program only collects data on direct emissions from fuels used here in Oregon. Because the GHG reporting data is related to the end use of the product, the GHG Reporting Program does not look at the lifecycle emissions.

Elizabeth reviewed the proposed Division 215 redline on points of reporting of biomethane for air permitted stationary sources, natural gas suppliers, and in-state producers. Proposed amendments are intended to add clarification to the rules for reporting biomethane. Elizabeth states that DEQ staff has interpreted the current Division 215 rules as allowing for the book and claim of biomethane for pipeline injected gas., but also acknowledged that more specificity is needed DEQ is conducting this rulemaking to invite engagement and discussion about some of the key considerations for reporting biomethane. At a high level, the proposed rule language:

- Allows for a book and claim accounting model
- Creates explicit requirements for the attestation of environmental attributes
- Allows for a DEQ-approved electronic tracking platforms for reporting, such as MRETS
- Requires gas to be claimed within the same calendar year
- Allows for claims the same volume of biomethane for the same use under multiple programs under certain circumstances

The proposed reporting requirements for biomethane to the GHG Reporting Program (OAR 340-215-0044) include name and address of vendor(s) that sold the biomethane to reporting entity; quality and quantity of biomethane; feedstock and production methods; points of origin; and demonstration that the environmental attribute cannot be claimed by another party. Moreover, the proposed language takes into consideration that other programs, like the Clean Fuels Program, currently allow for the use of electronic tracking platforms. Similarly, DEQ could allow for tracking systems provided that the records and documentation sufficiently demonstrate the claimed environmental attributes. In addition, the proposed rule language for recordkeeping requirements (OAR 340-215-0042) is meant to substantiate reported information. In conjunction, DEQ has proposed changes to Division 272 that requires third party verification of biomethane and hydrogen (OAR 340-272-0470(5)).

Elizabeth paused for an opportunity to ask clarifying questions about the reporting and record keeping requirements for biomethane.

Question: One member asked if it is possible for double counting to occur if one reporting entity is relying on the same biomethane for the Clean Fuels Program, while a different entity relies on the same biomethane for compliance with the Climate Protection Program.

Response: DEQ contends that the intention for the proposed rule language is not to create duplicative claims of a different volume or purpose, but rather to allow for the claim of same biomethane, the same volume, for the same purposes. A credit-generating entity in the Clean Fuels Program may both supply a natural gas or biomethane product as well as dispenses it. However, an entity may be supplying gas that comes from their local distribution company (LDC). In this case, the LDC may report it as biomethane if they have appropriate documentation to demonstrate that no one else can claim the same volume of biomethane for the same purpose and make it accessible to verifiers if third party verification is required.

Questions/Comments

- Another member asked for DEQ staff to expand on the proposed definition of “environmental attribute.” If it is DEQ’s intention to bundle all the environmental benefits of renewable natural gas and assigned to one end user, e.g., biogenic CO2 benefit of displacing fossil gas, avoided methane benefit, and potentially water and local air quality environmental attributes, it is important for the rule language to be clear about which attributes are being reported and which attributes are required to be retired.
- A third member emphasized that it is important to have consistency across programs that recognize biomethane/RNG in how Oregon is doing its accounting of molecules.

Next, Matt Steele explains in depth the proposed book and claim accounting model. Essentially, it is a chain of custody model that tracks emissions reductions when the environmental attribute is decoupled from the physical gas molecules. Once individual gas or biomethane molecules are comingled in the pipeline, it is impossible to track and deliver those same molecules to the point they are removed from the pipeline. The book and claim method detaches the environmental attribute from the physical gas molecules of biomethane when it is added to the pipeline and then reattaches the attribute to the physical gas molecules taken out of the pipeline, even if these are not likely the same gas molecules. When claimed as delivered and used in Oregon,

the environmental attributes are retired and can no longer be used. Other favorable reasons for using this book and claim approach to report biomethane:

- Consistent with other emission reduction and renewable energy programs at both the federal and state level.
- Allows for verifiable emission reductions without overly burdensome tracking and transport reporting requirements.
- Takes advantage of a greater supply of biomethane to reduce emissions in Oregon.

DEQ proposes a definition of an 'environmental attribute' that encompasses any greenhouse gas emissions benefits resulting from emission reductions associated with the production and use of biomethane claimed under the GHG Reporting Program (Division 215). For example, the methane from landfill waste decomposition is captured, upgraded to produce biomethane, and added to the pipeline to be delivered to end users. The environmental attributes of the produced biomethane are the avoided methane emissions from the landfill and the displaced fossil natural gas emissions.

To further illustrate the book and claim of biomethane, Matt walked through a few examples of how this might work in practice (illustrations on slides 29-31). In each scenario, if an out of state biomethane producer delivers physical gas to a local distribution company (LDC) outside of Oregon, the LDC cannot claim biomethane delivery.

- If an out of state biomethane producer sells to an Oregon local distribution company, the resulting environmental attributes are sold to the LDC and delivered to their customers. The Oregon LDC can then make the sole claim of the delivered biomethane.
- If a BAER facility purchases biomethane from an out of state biomethane producer, the facility attaches the environmental attributes to natural gas use at the facility and claims biomethane use and associated emission reductions.
- If an Oregon vehicle fueling station purchases biomethane attributes from an out of state producer, they can claim the delivery of biomethane under the DEQ Clean Fuels Program and the federal renewable fuel standard. Furthermore, the physical gas is delivered to the fuel station by an Oregon local distribution company, the LDC can also claim biomethane use, provided they can provide DEQ with the proper documentation.

DEQ staff opened the meeting for the RAC members to ask clarifying questions about the proposed book and claim model and environmental attributes definition in Division 215 (GHG Reporting Program).

Question: In reference to the landfill project example, one member pointed out that the DEQ Clean Fuels Program uses the full carbon intensity scoring method, and suppliers can see a differentiation because of the upstream GHG environmental attributes associated with a better scoring type of biomethane. Under the proposed policy, some suppliers may be reluctant to send utility LDCs certain types of biomethane because they are required to retire all environmental attributes, including the methane reduction benefit to the buyer. While this may have positive outcomes for the landfill project, has DEQ considered the non-CO2 GHG benefits associated with gas, especially if it is coming from out of state?

Response: It is DEQ staff's understanding that the GHG Reporting Program can only regulate direct emissions within the state and does not have the same authority as the Clean Fuels Program to collect data on upstream emission benefits, including GHG reduction benefits. At this point, the GHG Reporting Program is not able to account for production methodology and feedstock emissions and then adjust through a policy mechanism. However, DEQ is interested in gathering these data points from reporting entities, and the proposed definition of environmental attributes is inclusive of all GHG-associated environmental attributes. Under the proposed rule, DEQ would require that those attributes be associated with the attestation and no one else can claim them. Nonetheless, DEQ is open to feedback on the proposed definition for 'environmental attributes.'

Comment: In response, the RAC member suggested that if it is DEQ's intention to account primarily for the CO2 benefit claimed under this reporting system, then staff could consider specifying that in the language.

Comment: Another member expressed that it is important to understand the differences in statutory authority between the Clean Fuels Program and Climate Protection Program. The authority under which each of the programs was enacted is important in terms of what can and cannot be relied upon for compliance. They

raised concerns about the proposed definition of environmental attribute because it does not include avoided air pollutants, environmental justice benefits, or reduction of co-pollutants within Oregon. Conversely, the Public Utility Commission's (PUC) current definition does include capture of air pollutants. Further, the member expressed concern about a program that allows reliance on reduction of air pollution and GHG emissions from outside of Oregon when the intention of the Climate Protection Program to reduce GHG emissions and air pollutants within the state.

Question: Relatedly, has DEQ staff considered displacement theory, i.e., injection of biomethane by owner of Renewable Thermal Credits (RTC) which displaces the fossil gas delivered in Oregon? Does the draft language allow for bundled RTCs or will unbundled RTCs be permitted?

Response: DEQ confirmed that the displacement theory is part of the draft language. Regardless, both bundled and unbundled RTCs may be allowed so long as the biomethane is injected into the pipeline that is connected to Oregon.

To DEQ staff provided background and invited discussion with the RAC members on biomethane-related topics. The biomethane supplemental brief can be found on the DEQ Climate 2023 Rulemaking site under Meeting 2.

- Some considerations for geographic constraints on eligibility for book and claim include allowing biomethane to be injected into a pipeline located:
    - Within Oregon
    - Within Oregon or adjacent states
    - Within western states network
    - Within the North American pipeline network

  Illustrations of scenarios found on slides 35-38.
- The principle of book and claim accounting is based on displacement, where an amount of biomethane added to a connected pipeline system reduces the overall amount of fossil gas that must be added to same system to meet demand. Considerations for whether to allow biomethane to be claimed if it is injected into a natural gas pipeline that:
    - Connects to Oregon
    - Delivers directly to end user outside of Oregon but displaces fossil gas being delivered to a pipeline connected to Oregon
- Other considerations for book and claim include whether and how DEQ should restrict the vintage, i.e., the date or time period in which the biomethane is injected into a pipeline. Balancing flexibility for suppliers and the desire to closely align the year of claimed biomethane to actual GHG reductions, DEQ staff proposed the following options, all of which were up for discussion:
    - Claimed in same calendar year
    - Claimed in same and subsequent calendar year
    - Claimed in same year or previous calendar year if injected within the first quarter of the year

Questions/Comments

- A few members commented that their preference is to allow biomethane to be injected into any pipeline in North America. Any constraints would arbitrarily limit the GHG reductions that could occur. Because biomethane is physically identical to natural gas and a contiguous pipeline system exists in North America, geographical constraints could needlessly increase compliance costs and increase energy price for Oregonians.
- Members contended that there is a North American market for fossil gas and the goal of the policy is to leverage that for biomethane. However, drawing arbitrary boundaries on biomethane (RNG) could lead to perverse incentives. For example, if the program only allows for biomethane from certain states, some suppliers may be incentivized to dispatch RNG from certain regions and then use fossil gas to backfill other regions, which could create net emissions. Leaving it open to everything in North America is a better approach if the long-term goal is to have everyone in North America using renewable gas.
- Other members expressed support for allowing biomethane to be injected into a pipeline connected within Oregon state. The stated goals of the Climate Protection Program are to reduce GHG emissions and harmful co-pollutants in Oregon, particularly for environmental justice communities. Further, the

Community Climate Investments (CCI) are an alternative compliance option that already gives regulated fuel suppliers the flexibility to comply. Additionally, the federal Inflation Reduction Act can help fund future RNG projects in Oregon.

- One member questioned whether unbundled RTCs, which represent GHG reductions outside of Oregon, should be allowed based on the intent and existing authority of the Climate Protection Program. They further argued that cost containment was carefully considered in the Climate Protection Program rulemaking so concerns about increase in compliance costs for regulated entities should not be a factor. Another member cautioned that with a large supply of fossil gas being imported into Oregon, DEQ staff should be explicit in the language about 'bundled' and 'unbundled' RTCs in biomethane (RNG) accounting. If transmission rights are procured to bring RNG from one place and it displaces fossil gas coming from another place, this changes the dispatch of the gas system, which could move gas further than it otherwise would have been, and at worst, lead to the trucking of gas instead of using the efficient North American pipeline system.
- One member appealed to DEQ that the rule language be consistent with other biomethane (RNG) accounting practices to maximize the environmental benefits.
- One member commented that if there were administrative delays in receiving proper credit for environmental benefits, then suppliers would like to have more flexibility in the vintage year.
- In response to the proposed vintage requirement for book and claim accounting, a member pointed DEQ to the existing definition on vintage year in Senate Bill 98 for guidance in drafting language.
- In response to DEQ staff's consideration of allowing biomethane to be injected into a pipeline connected to Oregon, a member stated that virtually every pipeline in the interconnected North American gas system can be traced back to Oregon.
- A member contended that the proposed language in OAR 340-215-0042(6)(b),'directly connected to Oregon' is vague and urged DEQ to consider making it clearer in effort to avoid potential confusion for regulated entities.

Agenda Item: Public comment period

There were ten public comments during this time. Public comments included the following:

- Supported the option to restrict RTCs to in state because the environmental benefits should remain in Oregon. Further argued that the boundary around Oregon is not an arbitrary boundary. Reminded the RAC that the Climate Protection Program is not about creating biomethane markets in other states, but rather creating economic and health benefits in Oregon, particularly in environmental justice communities.
- With the passage of HB 2530 and federal funding for hydrogen available, Oregon is swiftly moving away from carbon-intensive hydrogen production toward green electrolytic hydrogen, which does not produce greenhouse gas emissions. Because hydrogen itself is a powerful indirect greenhouse gas policy makers must be aware of the production, distribution, and storage of hydrogen, i.e., the entire lifecycle. Encouraged DEQ to require maximum transparency for reporting hydrogen production including the source of the feedstocks, production method. and carbon intensity. Further urged DEQ to reevaluate the BAER threshold criteria to ensure there are no current stationary sources that would be affected by this proposed change.
- Urged DEQ to only allow book and claim for biomethane that is injected into natural gas pipeline within Oregon so that benefits from the emission reductions and economic development remain in state. Informed DEQ that primary markets for hydrogen are in long distance transportation and high temperature industries, while electrification is more cost-effective for space and water heating applications. Recommend that DEQ limit applications of hydrogen use to industry and transportation applications.
- Asserted that using colors to describe a hydrogen production process, e.g., gray, blue, green oversimplifies and argues that carbon intensity associated with hydrogen is more appropriate. Further encouraged DEQ to explore the production of hydrogen from renewable propane as well as other renewable feedstocks which would essentially generate renewable hydrogen.
- Asserted that DEQ's statutory limitation to undertake life cycle assessments has the unfortunate consequence of rewarding biomethane despite what the life cycle analysis of the fuel indicates. Argued that if DEQ must limit its assessment of emissions to what is occurring in boundary, then it seems only

consistent that the GHG Reporting Program limits the accrual of benefits to utilities for emissions reductions occurring in state.

- Strongly supported proposed rules that limit the use of RTCs that do not deliver direct benefits to Oregonians. Any RNG project must produce both air quality and economic benefits for the state. Further stated concerns of leakage from biomethane and hydrogen usage and called for DEQ to strengthen the reporting requirements. Urged DEQ to hold large industrial users accountable by expanding the public engagement process in BAER implementation.
- Expressed concern about gas utilities' overreliance on biomethane to meet CPP requirements rather than the intent of the program to reduce GHG emissions and other air pollutants, maximize public health benefits; and minimize costs for consumers, particularly those in environmental justice communities. Strongly urged DEQ to limit the geographical boundary for book and claim to in state and ensure that biomethane is injected into a pipeline within Oregon.
- Emphasized that GHG emissions do not stop at Oregon's borders therefore to restrict biomethane to in state production has market implications for industry and investments in the state. Stated that these regulations and Clean Fuels Program should be conducive to being adopted in other states. As more states adopt similar programs, the out of state biomethane supply will gradually shift away from Oregon to serve local demand elsewhere and in state biomethane production will become a robust industry. Affirmed that the biomethane industry needs strong in state development and the ability to import biomethane from out of state to help Oregon reach its GHG emissions reduction goal.
- Asserted that new or expanded biomethane supply would fly in the face of the Climate Protection Program's stated climate and equity goals and increase emissions and harmful health impacts. Strongly urged DEQ to allow book and claim only for biomethane produced and used in Oregon. Argued that CPP already provides significant flexibility and cost constraints for gas utilities to comply.
- Agreed with other commenters that DEQ should allow biomethane to be injected in any pipeline in North America for compliance with CPP. Recognized the proposed book and claim accounting as an effective way to maximize emissions reductions for Oregon. Argued that the current rulemaking is unnecessarily restrictive. GHG reduction somewhere creates a climate benefit everywhere. If DEQ imposes a geographic restriction on book and claim eligibility, then it should allow for biomethane to be injected in any pipeline connected to Oregon.

Agenda Item: Review and discuss issues related to hydrogen reporting

Elizabeth briefly touched on the goals in proposing draft language on reporting hydrogen to DEQ's GHG Reporting Program (Division 215). Next, Matt provided background on the chemical composition, production, and current uses of hydrogen. makes distinction that because it requires other forms of energy to separate hydrogen from the chemical compound that contains it, hydrogen is considered an energy carrier rather than an energy source. DEQ gave some examples of future uses for hydrogen, such as in industries where electrification is difficult and an effective medium for storing electricity from renewables. The three primary methods of hydrogen production are gray, blue, and green hydrogen. Gray is the most common method of producing hydrogen using natural gas and steam to produce hydrogen and carbon dioxide. Blue hydrogen is produced the same as gray hydrogen, but the CO2 emissions are captured and stored. An emerging technology, there are only about seven blue hydrogen production facilities currently operating in North America. Finally, the least common is green hydrogen production which uses renewable electricity to split water into hydrogen and oxygen. It is increasingly more common to categorize hydrogen production using carbon intensity rather than color.

DEQ discussed hydrogen blending, where hydrogen is substituted for some portion of natural gas currently in the system, as a potential application for local distribution companies to reduce their reported GHG emissions. Similar to biomethane, it would not be possible to track individual hydrogen molecules injected into the system; therefore, additional information would be required to track and verify the hydrogen blended. DEQ could also allow book and claim method based on the amount of natural gas displaced by hydrogen.

For example, an out of state hydrogen producer delivers the physical hydrogen gas to a local distribution company outside of Oregon and sells the environmental attributes associated with that hydrogen to a local distribution company in Oregon. The out of state LDC blends this hydrogen into the natural gas they deliver to their customers, but because they do not own the environmental attributes, they cannot claim credit for any emission reductions from hydrogen. However, the LDC in Oregon who purchased the environment attributes would be required to report, along with all required documentation to DEQ. Although hydrogen does not emit CO2 emissions when used, DEQ proposed draft language in Division 215 that would verify that the hydrogen reported by regulated entities and provide transparency on the feedstock and production methods of the hydrogen which was used in Oregon. Moreover, DEQ acknowledged the RAC's earlier discussion about carbon intensities of hydrogen production, but this language is not currently in the redline provided.

Before opening back up for RAC discussion, Elizabeth defined the points of reporting hydrogen for air permitted stationary sources and natural gas suppliers, and then outlined the proposed reporting and recordkeeping requirements under Division 215. Details provided in slides 55-57.

Questions/Comments

- Contended that the carbon intensity of the hydrogen production method is more descriptive than the colors discussed in the presentation. Urged DEQ to reference production methodology, the definitions that were passed in HB 2530. some boundaries around. Further recommended that DEQ apply constraints on types of hydrogen production methodologies allowed for book and claim.
- Discouraged too many limitations on the technology options for hydrogen production. Communicated to be in favor of a technology neutral policy and using carbon intensity to level the field with other technologies and motivate investments in those that can demonstrate good performance. In the medium term, biomethane as the more dominant energy carrier facilitates the transitioning toward hydrogen.
- Echoed the appreciation and support for DEQ's proposed changes to require greater specificity in reporting of hydrogen and wanted to elevate a previous comment about the importance of using carbon intensity and lifecycle emissions. Further argued that more specificity in the rule language is not akin to taking options off the table, but rather that there are several different compliance options including the Climate Protection Program's Community Climate Investment (CCI) intended to support the decarbonization of communities in Oregon.
- Asserted that the Climate Protection Program is all about Oregon, but the state cannot invest in the tools needed to make the program successful because there is no money in the budget. In addition, the state must rely on Washington and California because those states are outpacing Oregon. Expressed confidence that there will be a northwest hub and California is likely to have a hub. As a result, supply will rise tremendously in those states while Oregon will be left behind.
- Advised DEQ to look holistically across the whole economy and how to utilize scarce resources, such as renewable bioenergy feedstocks. Also stated that Oregon must consider options that are already available, such as power generation supplied by fossil gas and then converted to hydrogen, which was referenced in the EPA's recently proposed rule. Further recommended that DEQ develop a framework that incentivizes the lowest carbon outcome. Acknowledged that DEQ does recognize this reality and the proposed book and claim approach is a useful accounting tools to allow for those trade-offs to occur.

Agenda Item: Review and discuss updates to proposed rules from first RAC meeting

Joe Westersund reviewed proposed changes to the Climate Protection Program's (Division 271) Best Available Emissions Reduction (BAER) sections since the first RAC meeting:

- Limited the subset of modifications at the facility that are required to go through BAER process
- Public notice and 30-day comment period specified in rule for BAER Assessment and for draft BAER order
- Handling technicalities related to Notices to Construct

Facilities that emit 25,000 metric tons CO2e or more of BAER covered emissions in any year will have to go through BAER when DEQ chooses to call them in. So, facilities with high BAER emissions will have to go through BAER eventually. BAER review before a modification would help avoid situations where a facility has to un-do or re-do recent modifications they've made. DEQ wants to prioritize its limited staff time and not create unnecessary delays in processing permit modifications.

Throughout the Climate 2023 rulemaking, DEQ has posed a key question: when should BAER be required before a modification is approved, and when can it wait until DEQ calls facility in?

Joe listed several kinds of modifications that a facility may make. Relative to RAC 1 draft, DEQ proposed two additional criteria that would limit the situations in which BAER would be required before a facility could make a modification to their facility:

- A modification would trigger BAER only if it would "represent a significant change to the equipment or processes that emit covered emissions."
- If a source is already subject to BAER, i.e., actual emissions >= 25,000, then DEQ may choose not to require BAER at the time of the modification. DEQ can choose to wait and call them in later instead.

Question: One member inquired about the expected timeline for a BAER assessment and how it fits in with current timelines for processing permit modifications.
Response: DEQ recognizes that we must balance the intent of BAER with existing resources. The proposed rule language sets limits on the type of modifications that would initiate a BAER assessment to avoid unnecessary delays in permitting.

Question: A member asked DEQ to expand on how it defines a 'significant change' in the proposed rules. They offered a suggestion to reference the definition of a modification in the EPA's New Source Review (NSR) permitting statute (40 CFR 52) as it is widely understood by regulated entities.
Response: DEQ staff appreciated the questions and feedback and stated that they are helpful in the consideration of proposed language.

One member commented that the currently proposed 'potential to emit' threshold for a BAER assessment should be lowered because allowing the development of new sources that emit GHG emissions in Oregon conflicts with the program goal to achieve a 50% reduction in covered emissions from stationary sources.

Agenda Item: Review and discuss proposed rule changes to Third-Party Verification Program

Liz Hardee provided background on the Third-Party Verification program and brief overview of the process. Detailed illustration on slide 72. Next, she outlined the two significant changes to Division 272 and DEQ's rationale based on experience gain in the program's first year of implementation:

- DEQ proposed an amendment to the current qualification requirement for verification bodies to allow subcontractors to be used to meet the minimum of two verifiers requirement.
    - Rationale: Widens the pool of accredited verifiers and verification bodies to provide services to its greenhouse gas reporting programs.
- Clarify that the conflict of interest (COI) assessments forms may be submitted on the entity's behalf by its verification body.
    - Rationale: Streamlines the administrative process, improves the quality of the conflict of interest review, and aligns with other similar programs, including those operated by the California Air Resources Board.

Elizabeth talked through how some of the proposed changes to third-party rules cut across both the GHG Reporting Program (Division 215) and the Climate Protection Program (Division 271). DEQ proposes to keep the current requirements for entities submitting reports of 25,000 MT CO2e in anthropogenic emissions but also require verification of all electric companies submitting reports under Division 215 as well as any entity

subject to the Climate Protection Program, regardless of reported emissions. “Electric Company” is the term used in HB 2021 and includes Electricity Service Suppliers and Investor-Owned Utilities. The intention of this amendment is to ensure that reporting of emissions data, subject to HB. 2021 clean energy targets and the Climate Protection Program are independently verified. In addition, DEQ proposed an expansion of the GHG Monitoring Plans currently required for all sources subject to EPA (OAR 340-215-0042(11)) to:

- Require all entities subject to third-party verification to maintain a GHG Data Monitoring Plan that meets the EPA monitoring plan requirements
- Proposed specific requirements for Electricity Suppliers that are more applicable to the sector

Details provided on slide 80-81.

Comments

- Expressed appreciation for the proposed change to streamline COI form process. Pointed out that while the intention to allow for subcontractors to meet minimum lead verification requirement may be to address the lack of verification in Oregon, the proposed change to the rule may not address that concern in practice. Offered suggestions to increase the number of available verifiers in the state, including more accreditations accepted and verification training. Also advocated for the streamlining of the verification process for related entities and more clarification in the rule on verification of related entities reporting zero emissions.
- Argued in opposition of treating the verification of related entities as one because there are entities that the reporting entity may not do any direct business with and would not want them to be together in the same verification. Also commented on how overly broad DEQ defines the term ‘related entities.’
- Asserted that the referenced definition of electricity companies does not include electricity service suppliers but rather entities that are distributing electricity directly to the retail customers. Encouraged a revision of the language if the intention is to include electricity service suppliers.

Agenda Item: Rulemaking next steps

Rachel closed the meeting, requesting the RAC and public provide written comments to DEQ by May 30th and a reminder that the third RAC meeting is June 27th.

Alternate formats

Translation or other formats

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