Oregon Department of Environmental Quality

Office of GHG Programs

Climate 2023 Rulemaking

Advisory Committee Meeting 3 Summary

June 27, 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)
- Kellye Dundon (served as alternate for Mary Moerlins), Northwest Natural
- Marissa Bach, Shell Trading US Company
- Michelle Detwiler, Renewable Hydrogen Alliance
- Mike Freese, Oregon Fuels Association
- Nora Aptor, Oregon Environmental Council
- Norma Job, Ash Grove Cement Company
- Patty Satkiewicz (served as alternate for Zepure Shahumyan), PacifiCorp
- Sam Wade, Coalition for Renewable Natural Gas

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
- Matt Steele, Climate Policy Analyst
- Nicole Singh, Senior Climate Policy Advisor
- Rachel Fernandez, Greenhouse Gas Program Analyst
- Stephanie Summers, Fuels Sector Reporting Specialist, Greenhouse Gas Reporting

Agenda Item: Welcome, agenda overview, and rulemaking timeline

Colin McConnaha opened the meeting and expressed DEQ's appreciation for the advisory committee's continued engagement in this joint rulemaking process. He set the stage for the topics covered in the third and final RAC meeting, namely the annual distribution of instruments under the Climate Protection Program. Further, DEQ shared its initial assessment of both fiscal and racial equity impacts of all proposed rules, as well as environmental justice considerations. Next, Rachel Fernandez provided a brief overview of the meeting agenda, and Nicole Singh reviewed the Climate 2023 rulemaking timeline in greater detail. Following the third and final RAC meeting, DEQ will publish the Notice of Proposed Rulemaking based on all of the feedback and comments received to date. The public will have an opportunity to submit comments on the proposed rules in

the Notice, starting from late August through September. During the public comment period, DEQ will also hold a public hearing where the public may give oral comments. Then, DEQ staff will consider how the comments received may change the final proposed rules and respond accordingly. Finally, DEQ will submit all rulemaking materials to the EQC in advance of their November meeting when they will discuss and decide whether to adopt the final proposed rules.

Agenda Item: Review and discuss potential clarifications for reporting by liquid fuel suppliers under GHG Reporting Program

Elizabeth Elbel reviewed Division 215 proposed rules intended to address reporting for liquid fuel and propane suppliers, but first, she briefly overviewed the existing reporting requirements for these suppliers to level set the audience. Liquid fuel suppliers must report the total volume of fuel imported and dispensed for use in Oregon by fuel type and report these emissions associated with the use of that fuel. Currently, these requirements apply to all transportation and non-transportation fuels. By requiring reporting from liquid fuel suppliers further upstream, DEQ aims to minimize the burden on smaller businesses but also capture as much of the fuel as possible in its reporting.

Next, Elizabeth covered the three points of reporting for liquid fuel suppliers and noted the interaction with the Clean Fuels Program's reporting requirements (Division 253):

- **Position holders**. Entities that own fuel at terminals in Oregon and report the fuel dispensed from those terminals for use in Oregon.
- **Fuel importers**. Entities that import fuel outside of the bulk system, typically brought into Oregon by truck or rail for use in Oregon.
- **In-state producers**. Entities that produce fuel for use in Oregon and must report fuel supply for retail sales and is not transferred to a terminal in Oregon.

In all points of reporting, exported fuels are exempt from reporting to the Greenhouse Gas Reporting Program (Division 215); however, in some cases, these fuel suppliers are required to report transaction information about exported fuels to the Clean Fuels Program.

Primary goals for the proposed Division 215 amendments that impact the liquid fuel supplier sector:

- Add more specificity to further refine reporting requirements
- Address challenges with reporting of and documentation of exported fuels

Elizabeth referenced the proposed Division 215 rule amendments posted to the [Climate 2023 Rulemaking] website as she outlined the proposed updates to key definitions:

- **Related entity**. Clarify that a related entity by definition constitutes any direct or indirect relationships, or company under full or partial common ownership or control.
- **Position holder**. Add a requirement that the identification of the position holder must align with terminal records so that DEQ knows who the position holder should be for reporting purposes.
- **Terminal**. Clarify that fuel production facilities in Oregon with distribution equipment also meet the definition of a terminal; therefore, these suppliers must report as a position holder when distributing fuel directly to retail.

Proposed amendments in Section 340-215-0110(3) provide additional clarification on reporting requirements for a number of transaction types. Details provided on slide 14. Some of the reporting requirements found in the rule have been well-established in guidance, and this joint rulemaking is the opportunity to put this language into the Division 215 rules.

In response to comments from fuel suppliers regarding some of the accounting challenges, DEQ staff has proposed new requirements for the reporting and documentation of exported fuels. Through years of program implementation, DEQ staff acknowledges that the further upstream a reporting entity is in the fuel distribution system, the less insight they are likely to have into what happens to the fuels once exported out of the state. Balancing this fact with the importance of accurately accounting for exported fuels, DEQ staff proposed the following changes:

- New definition of 'export.'

- Expand record keeping and documentation requirements for exported fuels, including identifying the amount and type delivered for export, the date of the delivery, and then the final destination.
- New requirements for reporting exports and accounting for exported fuel under certain circumstances.

The proposed definition of 'export' is intended to provide clarity around which fuels, imported or produced in Oregon, may be excluded from a greenhouse gas emissions data report as an export. Similarly, additional recordkeeping and documentation requirements engenders a more comprehensive understanding of fuels exported out of state – both for DEQ's GHG emissions inventory purposes but also to help reporting entities in properly accounting for their exports. However, if a reporting entity cannot provide adequate documentation of fuels they exported, then emissions from this fuel should be included in a greenhouse gas emissions data report. Finally, DEQ proposes the new accounting and notification requirements under specific situations. For example, in the case when a reporting entity picks up fuel at a terminal that is diverted from the destination identified in a product transfer document received at the terminal. DEQ staff recognizes that the position holder faces challenges in reporting because they may not be aware of these diversions. Details on proposed rule language and citations are provided on slide 15.

In response, the proposed rule language addresses this reporting gap with a new notification requirement for fuel suppliers who purchase fuel at the terminal to notify the position holder of the change in destination at least 30 days prior to the GHG annual reporting April 30th. The rule amendment further addresses a less common scenario – fuel is purchased from multiple position holders in Oregon and held an intermediate bulk storage, i.e., a facility that does not fit the definition of a terminal. Elizabeth illustrated a scenario where the fuel being delivered to intermediate storage is commingled with the same fuel type and purchased from multiple position holders. The proposed rule changes prescribe the accounting methodology for fuel that is documented as an export dispersed from intermediate storage. Illustration and detailed methodology on the required accounting and notification of exports are provided on slides 16-18.

After wrapping up all of the proposed changes to the reporting requirements for liquid fuel suppliers, Elizabeth, transitioned into a discussion period with the advisory committee.

- One RAC member asked a clarifying question about the interpretation of the proposed definition of 'terminal' in the rule. Gave positive feedback that the added specificity in the definition of 'terminal' under Division 215 to include certain production and bulk storage facilities. Asked whether DEQ would consider a rail yard or a box storage facility with the equipment a terminal under the proposed definition. Due to the complications in reporting fuels for facilities not considered a terminal, the RAC member highlighted bulk storage as one area that warrants more clarity in the rules, specifically whether to treat fuels imported, for example, by rail, yard, and bulk storage as inside or outside bulk. Advocated for more clarifying language for exempt fuels as proposed for exports.
- Another RAC member inquired about the 30-day notice requirement for exports. In the instance where fuels are exported or changed from the intent, asked how this proposed amendment addresses the need for outreach to ensure reporting entities are receiving this information from non-regulated entities.
- A RAC member echoed the same concern about the new reporting requirements for exports. DEQ providing technical assistance to reporting entities seems administratively burdensome and a significant numbers of companies potentially involved in a transaction are not covered by the program. Therefore, if these non-regulated companies are not aware of this new reporting requirement for regulated entities, then capturing volumes of fuel exported by truck could be challenging for reporting entities to meet this requirement.

Agenda Item: Review and discuss proposed Climate Protection Program changes for non-natural gas (liquid fuels and propane) fuel suppliers

The next item outlined the proposed rule amendments (mostly found in OAR 340-271-0420) for liquid fuels and propane suppliers (non-natural gas suppliers) subject to the Climate Protection Program. Before diving into the proposed rule changes, Nicole illustrated the current methodology used to determine compliance instrument distribution in each cap year.

- The annual emissions cap is equal to the number of compliance instruments distributed to covered fuel suppliers each cap year.

- Each natural gas utility receives the number compliance instruments fixed in rule OAR 340-271-9000 Table 4.
- Set aside a compliance instrument reserve for new covered fuel suppliers in the amount prescribed in Table 3.
- The remainder the compliance instruments available in the cap year are proportionally distributed to the liquid fuels and propane suppliers. First, DEQ calculates the proportion of each non-natural gas suppliers' verified emissions reported within a three-year evaluation period. Then, DEQ applies each supplier's proportion to the total number of compliance instruments available to distribute. For example, in the 2023 compliance instrument distribution that occurred in March, DEQ used the average of covered and biofuel emissions reported in years 2019-2021 to distribute instruments proportionately to each liquid and propane suppliers covered in the 2023 cap year.

DEQ explains that the data gap between the three-year evaluation period and the cap year is due to the GHG reporting cycles and third party verification requirements. The GHG Reporting Program (Division 215) required that 2021 emissions data be reported by April 30, 2022; therefore, the 2022 emissions data was not available at the time the Climate Protection Program distributed the 2023 compliance instruments. After the annual reporting deadline, DEQ staff spends several months auditing the self-reported data before undergoing third party verification.

DEQ grants that the current methodology can present some challenges for new covered fuel suppliers entering the program, particularly as the threshold declines over time. In many cases, CPP staff noticed that new entrants need to make multiple requests to the reserve because GHG reporting does not necessarily have emissions data for all three years in the evaluation period. In effort to improve implementation, DEQ proposed some amendments to the compliance instrument distribution methodology to use more recent emissions data.

- Move forward the distribution timeline, currently set at March 31st to June 30th of the cap year.
- Shorten the current evaluation period from three years to one year.
- Utilize self-reported rather than verified emissions data to determine the annual compliance instrument distribution.

In practice, DEQ would theoretically use 2023 self-reported emissions data received in April 2024 to determine the 2024 compliance instrument distribution no later than June 30, 2024. Nicole prefaced that the use of self-reported emissions data can have ramifications for the proportional distribution.

- Risk of more data reporting errors
- Emissions data will not be audited
- Incomplete third party verification, particularly if any covered fuel supplier reported data that needed correction.

A covered fuel supplier may see a significant difference between their self-reported and the third-party verified emissions, which will have cascading effects on other covered fuel suppliers in the annual distribution. Some suppliers may acquire a few more instruments, while others could end up with less, comparatively.

DEQ is also proposing amendments to the compliance instrument reserve. Before transitioning to the additional proposed changes, Nicole briefly described the current methodology applied to distribute from the reserve. The compliance instrument reserve is set aside for new covered fuel suppliers, which may include:

- New entrants to the market who have never reported emissions to DEQ and do not have any historic data.
- Fuel suppliers in Oregon who have passed the applicability threshold.

The current rules on the distribution of compliance instruments from the reserve are less prescriptive than they are for the annual compliance distribution. OAR 340-271-0420(5)(d)(A) states that DEQ staff may consider the number of compliance instruments that the fuel supplier might have received, if they have included in the annual distribution. Subsequent sections of the rule enumerate other considerations in the determination of the number of compliance instruments to distribute from the reserve:

- The number of available instruments in the reserve at the time of the request
- Maximum distribution amount cannot to exceed the covered emissions of the fuel supplier who requests from the reserve
- Maximum distribution amount cannot exceed 300,000 compliance instrument per fuel supplier per year.

Based on experience during the 2022 reserve distribution, DEQ realized the need to provide more certainty for covered fuel suppliers about the number of compliance instruments they might receive from the reserve as well greater flexibility in allocating those reserve instruments. In response, DEQ staff has proposed two key changes to the rules on reserve distribution.

1) Remove the current 300,000 limit on the number of compliance instruments that can be distributed to any one covered fuel supplier.
2) Allow the maximum distribution of instruments to any covered fuel supplier to be equal (not less than) their covered emissions for the calendar year being considered.

It is important to note that DEQ is not proposing a change to the maximum distribution allowed from the reserve and continues to be limited by the total number of compliance instruments available in the reserve. DEQ grants that this limitation could lead to a situation in which multiple newly covered fuel suppliers apply for a distribution of compliance instruments from the reserve and the total covered emissions of these fuel suppliers exceed the current reserve size.

Therefore, DEQ proposes specific language within the rules that describe a distribution formula to proportionally allocate instruments *available* in the reserve based on the total covered emissions of all cover fuel suppliers who are approved for a reserve distribution. In the case where the total covered emissions from fuel suppliers with approved reserve requests exceed the total number of compliance instruments in the reserve, DEQ will allocate the reserve distribution proportionally. Illustration of how the reserve distribution methodology would work in practice on slides 31-33.

In addition, DEQ proposes a rule change to the reserve eligibility that states new covered fuel suppliers that are a related entity to an existing covered fuel supplier are ineligible to receive a distribution from the compliance instrument reserve. If Covered Fuel Supplier A purchased Company B in 2024, then the newly acquired company becomes Covered Fuel Supplier B, a related entity to Covered Fuel Supplier A. As a regulated entity, Covered Fuel Supplier A receives the 2024 compliance instrument distribution; however, under the proposed amendment, Covered Fuel B, as a related entity would not be eligible for a distribution from the 2024 reserve. The rationale for this amendment is in part, to remove any unintended incentives to maintain any newly acquired business as its own separate entity, or to disaggregate portions of the business as a new related entity. Note the exception if multiple related entities were to become covered fuel suppliers in the same year.

Further, DEQ presented and encouraged feedback on two potential changes to the Division 271 rules, which are not found in the draft redline posted to the rulemaking site (see slides 34-36).

1) Should DEQ implement a ‘true up’ mechanism to balance any over- or under- distributions in previous year(s) in a future distribution?
2) Should DEQ set a holding limit on compliance instruments?

Relying on self-reported data to calculate the annual distribution poses a greater risk of reporting errors, which are discovered and corrected after DEQ has distributed the compliance instruments.
Therefore, staff proposes a forward-looking approach that adjusts the annual compliance instrument distribution based on audited and verified data once all GHG reporting corrections have been made by the regulated entity. For example, if after third-party verification process, it is discovered that a covered fuel supplier erroneously over-reported their covered emissions and as a result received more compliance instruments than they should have, then DEQ staff would distribute fewer compliance instruments to the covered fuel supplier in a future distribution. Similarly, if a covered fuel supplier under-reported their covered emissions, then they would then receive enough compliance instruments in a future distribution to make them whole.

DEQ staff is also considering the frequency of conducting a true up with verified data:

- On an annual basis, e.g., the 2024 distribution (based on 2023 self-reported data) would be adjusted using 2023 verified data during the 2025 distribution.
- Over a multiple year period, e.g., 2024 and 2025 distributions are recalculated using 2023 and 2024 verified data, respectively, and adjustments applied to 2026 distribution.

Other cap and trade programs use holding limits on the number of compliance instruments that could be held by any covered fuel supplier to discourage non-competitive market behavior. DEQ staff is considering the methodology to determine the appropriate holding limit as well as the time horizon for which the limit could be applied.
Could be determined by:

- Specific number of compliance instruments,
- Percent of total compliance instruments in circulation, or
- Percent of an entity's compliance obligation

Could be applied:

- Annually concurrent with the compliance instrument distribution, or
- Once within a compliance period.

Next, the RAC asked clarifying questions and offered some initial feedback on the two points of discussion:

- One RAC member asked for more context in how DEQ is thinking about the timing to balance compliance instruments after reported covered emissions are adjusted using verified data. Staff affirmed the goal to true up all covered fuel suppliers' distributions by the end of the compliance period. Other RAC members expressed concerns that proposed reporting timeline will impact covered fuel suppliers' ability to forecast because they will have to wait until the middle of the year to find out their distribution. Therefore, they suggested that a true up occur within the same cap year could provide more certainty for covered fuel suppliers for future years as the cap declines.
    - Given that verified data would not available until Q3, DEQ explained that the rationale for doing a true up in the next year's distribution is to avoid the situation in which staff has to take back instruments that covered fuel suppliers may want to trade. In response, a RAC member countered that the onus should be on the reporting entity to submit good data.
- Another RAC member did not support the implementation of a holding limit on compliance instruments because there are other ways to prevent anti-competitive behavior and incent trading, like expanding the pool of eligible market participants to include non-covered entities. However, if a holding limit were implemented, they would recommend that they be calculated on an entity by entity basis, as done in California's program.
- A RAC member asked whether DEQ had a sense of the magnitude of differences between self-reported and third party verified data and how covered entities could be impacted by a significant reporting inaccuracy after true up. If the program relies on self-reported data, then they suggested that DEQ incentivize the most accurate self-reported data with penalties for reporting errors, and staff acknowledged GHG Reporting's efforts to improve data integrity in the hope of reducing reporting errors. To ensure early emissions reductions, the RAC member proposed additional criteria for fuel suppliers who are coming to the reserve to meet before they are able to receive instruments.

Agenda Item: Recap proposed rule changes for Climate Protection Program

Joe Westersund summarized the most recent changes to the Best Available Emissions Reductions (BAER) rules based on feedback received in the last two RAC meetings. One, DEQ proposes that OAR 340-271-0110(5)(a)(C) explicitly state that Type 2 Notices of Intent to Construct or Notice of Approval Application for Title V facility modifications, may be required to go through BAER at the time of modification. In addition, DEQ added some clarifying language to OAR 340-271-0310(1)(c) that clearly explains what happens if a permit modification is <u>not</u> required to go through BAER, though the facility may be required to go through BAER in the future should they have actual covered emissions above 25,000 MT/CO2. Details provided on slide 43.

Agenda Item: Public comment period

There were 11 public comments during this time. Public comments included the following:

- Urged DEQ not to allow the use of Renewable Thermal Credits (RTCs) to comply with the Climate Protection Program (CPP) because these credits can be generated by risky out of state biomethane projects with no DEQ oversight. Unlike Community Climate Investments (CCI), RTCs do not advance the goals of the CPP, invest in decarbonization efforts, or create clean energy jobs in Oregon.
- Reiterated previous comments that biomethane must produce direct benefits for Oregonians to qualify for CPP compliance. Advocated for more stringent emission reduction requirements for new and expanding large stationary sources. Support the one-year evaluation period over the current three-year evaluation period because it will provide a more accurate distribution of compliance instruments, especially as the fuel supply market will be undergoing significant changes. Agreed with proposal to delay the deadline for the annual distribution of compliance instruments but recommended DEQ move up the deadline for self-reported data to April 1st, for third party verification to August 1st, and September 1st for the distribution of compliance instruments.
- Recommended that DEQ conduct a literature review of hydrogen blending into gas systems because recent studies concluded that there is a low certainty that hydrogen blended into a gas system will effectively displace gas as an energy source. Suggested separating the accounting and reporting requirements for hydrogen from the other fuels in the draft rules. Urged DEQ to implement more stringent requirements for a BAER applicant.
- Expressed concerns that the proposed timeline for distribution of compliance instruments and making a rule amendment in the middle of a compliance period would impact the ability to make the sound business decisions. Pointed out that DEQ can use the last available year of verified data and obviate the need for a true up. Supported DEQ's position that holding limits can generate market liquidity but cautioned that holding limits on compliance instruments must be carefully implemented to avoid unfairly penalizing increased biofuel distribution in the state.
- Encouraged DEQ to restrict biomethane use to heavy trucking and industrial processes without an alternative to not allow RTCs to be used for out of state projects.
- Warned that allowing the expansion of RNG is counter to the goals of the CPP and allowing the use of renewable thermal credits rather than community climate investments will incentivize more dirty fuels.
- Strongly urged DEQ to use this rulemaking process to focus on reducing emissions and promoting both local air quality and economic benefits in Oregon.
- Expressed concern about RTCs creating a pathway for investments to be diverted out of state instead of benefiting in state projects that reduce emissions and benefit disadvantaged communities.
- Recommended that DEQ ensure that the proposed rule amendments does not result in the transferring the allowable pollution into other areas.
- Warned that RNG will be a substitute for clean energy every time it is utilize so it is incumbent upon DEQ and the Climate Protection Program to minimize RNG as much as possible. Further argued that the RTCs offer an incentive to move away from the very goals that the Climate Protection Program embraces.
- Expressed an interest in verifying that Community Climate Investments result in actual emissions reduction for the intended communities.

Agenda Item: Recap all proposed changes for GHG Reporting Program and Third-Party Verification

Following the public comment period, Elizabeth recapped the proposed amendments to Division 215 for each reporting sector that is directly impacted. Details are provided on slide 46-49:

Stationary sources: Clarification for exemptions and reporting requirements for sources that are in-state producers; introduce additional reporting requirements for biomethane and hydrogen; clarification of definition of carbon dioxide suppliers, as it relates reporting specifically under EPA subpart PP; and require all entities subject to CPP to obtain third-party verification, regardless of the emission reported.
Liquid fuel and propane suppliers: Clarification of the definition of position holder; alignment of related entities definition across divisions; modification of language to address in state transfers within the bulk

system; introduce additional record keeping and notification requirements related to accounting for exported fuels; and the expansion of the third party verification applicability to include all entities subject to CPP.

Natural gas suppliers: Clarification of reporting for in-state producers of natural gas and biomethane; introduce additional reporting requirements for the reporting of biomethane or hydrogen.
Electricity suppliers: Amendment of multijurisdictional emissions calculation to allow alignment with the current cost-allocation methodology approved by Public Utility Commission; expansion of third party verification applicability to include electricity service suppliers.

Next, Elizabeth reviewed the proposed amendments for reporting biogas, biomethane, and hydrogen under Division 215. DEQ received valuable stakeholder comments on this complex reporting issue, both from a policy and a technical standpoint. Adding specific language on the reporting and recordkeeping of these fuels provides more certainty that they are being accounted for consistently and correctly.

Given that hydrogen is poised to be emerging emission reduction strategy, DEQ anticipates that additional language to account for the use of this fuel will be needed once these projects come online. DEQ's goal for these Division 215 reporting and recordkeeping updates is to be able to identify and quantify biomass derived fuels because biomass fuels and the emissions from the use of biomass fuels are exempt by statute from state air pollution regulation. Similarly, it is one of the reasons why it is not a covered fuel under the Climate Protection Program. With this goal in mind, DEQ staff refined the definition of biomethane in the rules to avoid using the terms biomethane and RNG interchangeably. The proposed amendments to Division 215 limit the type of RNG that may be reported as biomethane and exclude renewable natural gas that is derived from non-biogenic sources, such as synthetic methane produced from a waste CO2 product.

In response to a few comments received, Elizabeth wanted to emphasize that the reporting requirements and amendments are not intended to change the current method of reporting, but rather add specificity in the rule language on what is required in the contractual documentation for biomethane and hydrogen reporting. Moreover, DEQ proposed a book of claim accounting approach to expand upon those requirements for contracts. Attaining more information about these fuels being used in Oregon enables better verification of those fuels and informs interested stakeholders on GHG inventory data. To that end, DEQ staff proposed additional reporting requirements for attestations related to environmental attributes.

After our conversations from the last advisory committee meeting and reviewing comments, DEQ currently proposes an amendment to align delivery requirements for these fuels with physical pathways used to deliver natural gas in Oregon, either through direct delivery by truck or through pipelines with a physical connection to Oregon. The rationale is that if the natural gas is delivered to Oregon through a certain pathway, then it stands to reason that the biomethane, if documented, could theoretically do the same.

In addition, the proposed vintage requirement states that gas must be injected within the same year it is being claimed to ensure that DEQ is properly accounting for emissions occurring within the calendar year, which is consistent with the emissions reporting requirements under Division 215. Biomethane and hydrogen fuels and the emissions derived from their use are characteristically distinct from fossil fuels; therefore, DEQ proposed language identifying and requiring rights to these characteristics in the form of environmental attributes and requiring documentation that prohibits other entities from making similar claims on the same volume of fuel. While DEQ is not requiring the use of Renewable Thermal Credits (RTC), they are allowed under Division 215 to the extent that they meet these requirements and demonstrate retirement or claims of environmental attributes.

Before wrapping up the recap on Division 272 proposed amendments, Elizabeth briefly discussed the minimal changes to the Third Party Verification Program (Division 272) designed to improve the implementation of the relatively new program. One, DEQ proposed to update the definition of related entity under Division 272, aligning across all three divisions. Some other amendments include, allowing subcontractors to meet requirements for lead verifiers and more flexibility around the submission of conflict of interest forms.

Agenda Item: Discuss fiscal impact and racial equity statement for Climate 2023 rulemaking

Now that we have held the last of three RAC meetings for this rulemaking, DEQ has thoughtfully considered the potential impacts of all the proposed amendments across the three divisions and drafted a preliminary Fiscal and Racial Impact Statement for the advisory committee to review. As part of the notice requirements, staff will consider the committee's input as well as any written comment submitted and then update the statement before publishing the Notice of Proposed Rulemaking. DEQ highlighted the impacts identified and presented them by sector and division. Details can be found on slides 56-63:

Natural gas utilities

- Amendments to the record keeping and reporting of biogas, biomethane, and hydrogen will result in minor fiscal impacts to the natural gas suppliers and other regulated entities reporting these fuels.
- Amendments to rules on the development and management of GHG data monitoring plans. Some suppliers may already maintain documentation as a best practice, so DEQ expects this to have a minimal impact on reporting.
- Amendments to the definition of biomethane may increase compliance costs for natural gas utilities that intend to purchase and report synthetic methane derived from non-biogenic waste CO2.

Liquid fuel and propane suppliers

- Some minimal fiscal impact related to the GHG data monitoring plans.
- Augmented recordkeeping and notification requirements for exported fuels may have minimal fiscal impact.
- Changes to the CPP compliance instrument methodology may have fiscal impact on individual fuel suppliers who receive fewer instruments than they would have received under the current compliance instrument distribution methodology.

Stationary sources

- Augmented reporting attestation and verification requirements for reporting biogas, biomethane or hydrogen may have minimal fiscal impact for stationary sources
- Proposed new permit requirement in the Best Available Emissions Reduction (BAER) approach has potential fiscal impacts for any sources required to obtain the basic Air Contaminant Discharge Permit (ACDP), e.g., compliance costs for maintaining permit, including fees, monitoring costs, record keeping, etc.
- Source required to go through the BAER process would have associated costs for the BAER assessment and any future BAER order.
- Sources subject to BAER would incur fees to obtain the notice of construction or permit modification.

Electricity suppliers

- Proposed requirement to develop greenhouse gas data monitoring plans may have minimal fiscal impact.
- New third-party verification requirement for electricity service suppliers subject to the clean energy targets has a fiscal impact because they are responsible for the costs to verify their annual reports.

Third-party verifiers and verification bodies

- Expansion of the third party verification requirement may have a minimal fiscal impact as there may be a few entities that are required to obtain verification services
- Allowing for subcontractors to meet lead verifier requirements could impact the availability of verification bodies in Oregon.

In addition to impacts to regulated entities, DEQ staff must assess the impacts to state agencies, local governments, and the public as well as the cost of compliance to different types of businesses.

- DEQ staff anticipates minimal fiscal impacts related to the implementation of the proposed rules, e.g., additional staff resources to provide trainings, technical assistance, as well as conduct permit-related requirements for new facilities requiring a permit.
- DEQ identified a few local governments that own or operate stationary sources or air permitted facilities would be impacted by these amendments similar to a stationary source.
- DEQ does not believe that the public would experience direct fiscal impacts as a result of the proposed rule amendments as a whole but does acknowledge that they may experience indirect impacts from additional compliance costs to covered fuel suppliers subject to the Climate Protection Program (Division 271).

Furthermore, DEQ staff used greenhouse gas reporting data to identify the different types of businesses that may be directly impacted by specific rule amendments. As part of the implementation strategy, DEQ staff expect to mitigate these impacts by providing technical assistance, tools, and support for all of the businesses to comply with the new requirements. Details can be found on slides 65-67.

- Approximately 69 businesses, including one electricity service supplier previously discussed, that will need to contract for verification services.
- 20 large businesses that are currently reporting biogas or biomethane, comprised of one natural gas supplier and the rest are stationary sources.
- 48 large businesses that may incur additional costs associated with developing and maintaining GHG data monitoring plans.
- 18 small businesses that may be directly impacted by these amendments, comprised of four currently approved verification bodies; two stationary sources currently reporting biogas; and 12 liquid fuel suppliers impacted by the new recordkeeping and notification requirements.

Finally, one of the overarching goal of the Climate Protection Program is to promote equity and environmental justice in the state. Nonetheless, DEQ staff invited committee and public input on how the adoption of these proposed rule amendments could affect racial equity and/or environmental justice (see slides 69-74).

Agenda Item: Rulemaking next steps

Rachel closed the meeting, requesting the RAC and public provide written comments to DEQ by Friday, July 14, 2023. DEQ plans to publish the Notice of Proposed Rulemaking in late-August.

Translation or other formats

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