

Date: Sept. 6, 2023

To: Environmental Quality Commission

From: Leah Feldon, Director

Subject: Agenda item H, Informational item: Climate 2023 Rulemaking Overview
Sept. 14-15, 2023, EQC meeting

Why this is important DEQ will provide an update on the Climate 2023 Rulemaking. DEQ is proposing rule amendments to support implementation of the Office of Greenhouse Gas Programs' Climate Protection Program, Greenhouse Gas Reporting Program and Third Party Verification Program.

Prior EQC involvement In 2008, EQC adopted the rules to implement the Greenhouse Gas Reporting Program and has since adopted several updates to that division of rules. EQC adopted rules for the Third Party Verification program in 2019. In December 2021 EQC adopted rules to establish the Climate Protection Program. In November 2022 EQC adopted a temporary rule for the Climate Protection Program. The commission also received extensive updates throughout the course of Climate Protection Program rule and program development activities.

Background The Third Party Verification program allows DEQ to collect comprehensive data on Oregon's greenhouse gas emissions. The program governs the collection of annual greenhouse gas emissions data and related information from certain entities, including large industrial emitters, fuel suppliers, and both natural gas and electric suppliers, including utilities. Data collected through this program supports implementation of Oregon's greenhouse gas emissions mitigation programs, is used to inform policy development and decision makers, and is the data used to track progress towards Oregon's emission reduction goals.

The Third Party Verification program adds an additional layer of certainty to the accuracy of data reported to the Greenhouse Gas Reporting and Clean Fuels Programs. The program governs administration of third party verification, from DEQ approval of verifiers and verification bodies, to third party verification procedures to be followed by entities and verification service providers.

The Climate Protection Program sets a declining limit, or cap, on greenhouse gas emissions from fossil fuels used throughout Oregon, including from the use of diesel, gasoline, natural gas and propane, used in transportation, residential, commercial and industrial settings. Entities subject to the declining emission

caps include liquid fuels and propane suppliers and natural gas utilities. The emission cap declines 50% by 2035 and 90% by 2050. The program also regulates site-specific emissions at certain manufacturing facilities not covered by the emissions cap, such as emissions from industrial processes, with a best available emissions reduction (BAER) approach.

Key issues DEQ will provide an overview of Climate 2023 rulemaking, including key proposed rule changes in the August 2023 Notice of Proposed Rulemaking.

Based on agency experience implementing these programs, the proposed rule amendments provide regulated entities with additional clarification on complying with program requirements, propose program adjustments to incorporate newly regulated entities more readily, and support robust greenhouse gas emissions reporting. The proposed rule amendments include a variety of clarifications to program requirements, process improvements, and a limited number of program modifications.

Key proposed changes for each program are summarized below.

Greenhouse Gas Reporting Program, Division 215

This rulemaking proposes amendments to the reporting rules to support improved implementation of the program by increasing the clarity of the rules, adding definitions, and specifically addressing recordkeeping and reporting requirements. A key element of this rulemaking is proposed language to expand upon existing requirements for reporting contractual deliveries of biomethane and hydrogen by specifying the requirements for use and reporting of book and claim accounting.

Third Party Verification, Division 272

This rulemaking proposes an expansion of third party verification requirements to all regulated entities subject to the Climate Protection Program and to all electricity service suppliers, regardless of greenhouse gas emission levels. The proposed amendments also clarify third party verification requirements for reporters of biomethane and hydrogen and propose minor implementation improvements to streamline program administration.

Climate Protection Program

Proposed changes to the program are intended to better align staff resources and timelines with the reporting program and third party verification, more quickly incorporate new covered fuel suppliers into the program and provide greater clarity on program requirements for regulated entities.

For natural gas utilities, this rulemaking proposes clarifications that emissions from natural gas, whether combusted or oxidized, are covered emissions for natural gas utilities.

For liquid fuels and propane fuel suppliers, this rulemaking proposes modifications to the compliance instrument distribution methodology in tandem with modifications to the reserve for compliance instruments and proposes a holding limit for compliance instruments.

For stationary sources, this rulemaking delineates the circumstances under which modifications to an existing air permit would trigger a need for DEQ to issue a BAER order.

Specific rule amendments released for public comment may be modified before being finalized and recommended to the commission later this year.

EQC involvement DEQ intends to bring a rule proposal for commission action at the Nov. 16-17, 2023, EQC meeting.

Supporting materials

- A. Climate 2023 Rulemaking website (including Notice of Proposed Rulemaking and Draft Rules)
<https://www.oregon.gov/deq/rulemaking/Pages/climate2023.aspx>
- B. [Climate Protection Program](#)
- C. [GHG Reporting Program](#)
- D. [Third Party Verification](#)

Report prepared by
Elizabeth Elbel, *GHG Reporting Program Manager*
Nicole Singh, *Climate Protection Program Manager*

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800-452-4011 | TTY: 711 | deqinfo@deq.oregon.gov

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