

Date: March 12, 2024

To: Environmental Quality Commission

From: Leah Feldon, Director

Subject: Agenda item D, Informational item: Climate Protection Program Update
March 21-22, 2024, EQC meeting

Why this is important DEQ is conducting a rulemaking to re-establish a climate mitigation program in place of recently invalidated rules that established Oregon’s Climate Protection Program. In December 2023, the Oregon Court of Appeals determined that DEQ did not fully comply with notice requirements during the 2021 rulemaking process for the CPP, thereby invalidating the rules and program. The CPP was a critical component to meeting Oregon’s greenhouse gas reduction goals.

The objective of the Climate Protection Program 2024 rulemaking is to re-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 beginning in 2025.

Prior EQC involvement In December 2021, the commission adopted rules to establish the Climate Protection Program. The commission received regular and extensive briefings by the department during the nearly 18-month long rulemaking process.

In November 2023 and December 2023, the commission adopted rules that made minor modifications and clarifications to the program as part of the Climate 2023 rulemaking. These modifications were informed by staff’s experience implementing the program over the previous 18 months, as well as input from regulated companies and other interested parties.

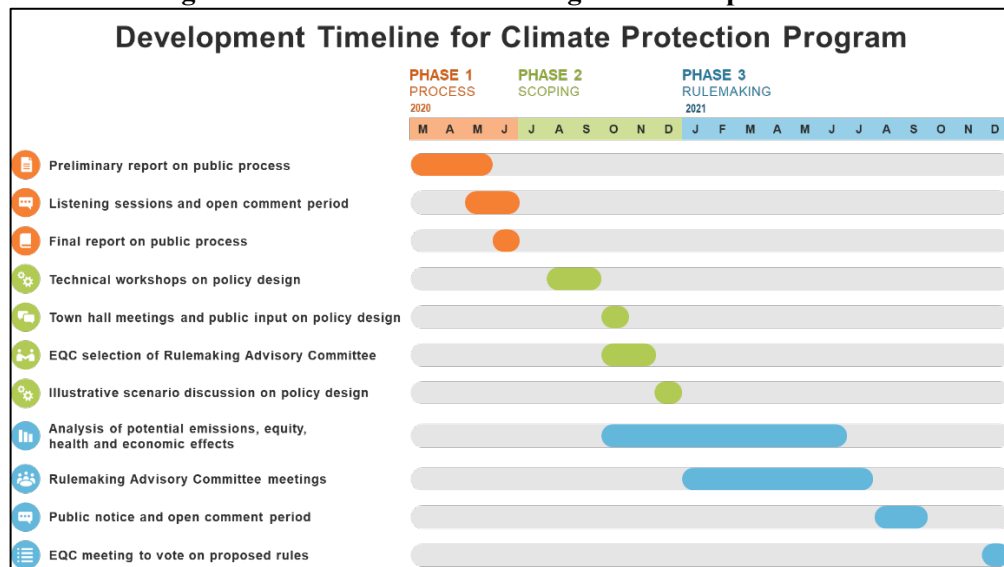
CPP background The Climate Protection Program established a declining limit, or cap, on greenhouse gas emissions from fossil fuels used throughout Oregon, including from the use of diesel, gasoline, natural gas, and propane, used in transportation, residential, commercial, and industrial settings. Entities subject to the declining emission caps included liquid fuels and propane suppliers and natural gas utilities. The program was designed to reduce these fuel suppliers’emissions fifty percent by 2035 and ninety percent by 2050. The program used three-year compliance periods with fuel suppliers scheduled to demonstrate compliance in late 2025 for the 2022-2024 compliance period.

The Climate Protection Program also regulated certain site-specific greenhouse gas emissions at a limited number of manufacturing facilities, such as emissions from industrial processes, with a best available emissions reduction approach.

Program development

DEQ used a three-phase approach to develop the initial program. Program development was informed by extensive public engagement, including active engagement with environmental justice communities. Prior to the formal rulemaking process in 2021, DEQ convened public listening sessions, followed by a series of technical workshops on key program elements and general town halls throughout 2020. Hundreds of people attended these meetings and offered an extensive array of input on how Oregon can address climate change through statewide policy.

Figure 1: Climate Protection Program Development Process

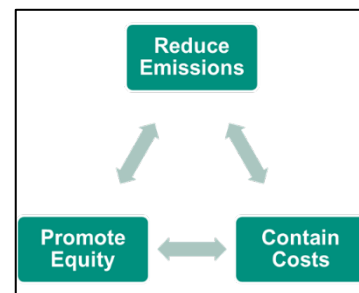


DEQ then conducted the formal rulemaking throughout 2021, holding seven rulemaking advisory committee meetings seven in the first half of 2021. All meetings were open to the public and included opportunities for public comment. DEQ received over 7,000 comments after the release of the Notice of Proposed Rulemaking in August 2021.

Program goals and environmental justice

Environmental justice communities are overburdened by pollution, face greater impacts from climate change, have been marginalized in public process and have less access to clean and new technologies.

During the development of the initial Climate Protection Program, DEQ identified three interrelated program goals: Significantly reduce greenhouse gases emissions, contain costs for business and consumers, and promote equitable outcomes (increasing benefits and reducing burdens for environmental justice communities). Environmental justice community engagement and representation, including advisory committee membership, was critical in the development of the initial program.



As part of DEQ’s implementation of the program, DEQ convened an Equity Advisory Committee, a key partner as the agency developed the Community Climate Investments (CCI) component of the program.

**2024 CPP
Rulemaking**

Purpose and scope

The primary purpose of the Climate Protection Program 2024 rulemaking is to:

- Re-establish a program to set limits on greenhouse gas emissions from significant sources in Oregon.
- Re-establish an enforceable and declining limit, or cap, on greenhouse gas emissions from fossil fuels used in Oregon, including diesel, gasoline, natural gas, and propane beginning in 2025.
- Define regulatory applicability and program requirements, while prioritizing equitable outcomes.

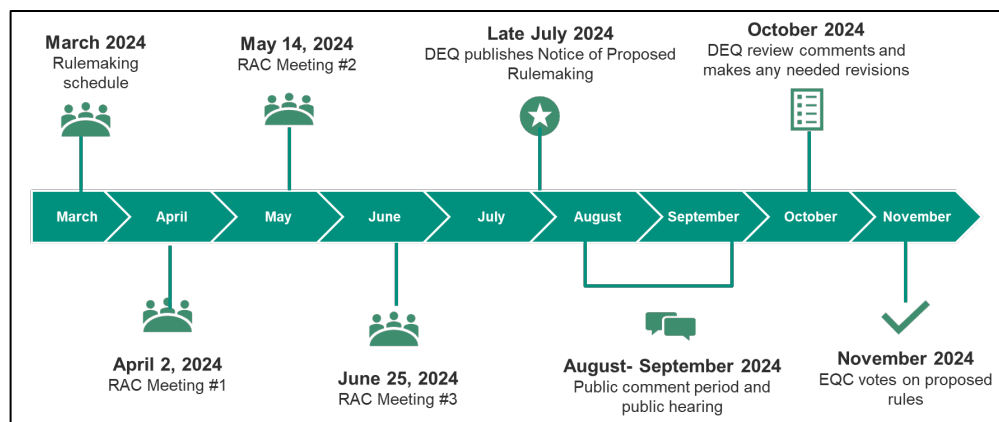
The intent of this rulemaking is to re-establish a climate program with comparable scope and emissions reduction ambitions as the previously adopted Climate Protection Program.

While staff do not intend to propose a major redesign of the program, DEQ will need to make some adjustments to the current design for the program to start in 2025. DEQ will leverage staff’s experience implementing the initial program and will also use the opportunity to review key program design elements with the rules advisory committee and the public for additional considerations. DEQ will also consider developments in state and federal climate and energy policies since the program was initially adopted in 2021.

Process and timeline

DEQ has appointed a rulemaking advisory committee which will meet three times from April-June 2024. All RAC meetings will include opportunities for public comment.

Figure 2: CPP 2024 Rulemaking Schedule



DEQ aimed to select a committee that is large enough to provide diverse perspectives, lived experience, and expertise, while allowing ample opportunity for engagement. DEQ

has appointed several environmental justice or community-based organizations to the committee and will continue to support their participation.

DEQ anticipates releasing of the Notice of Proposed Rulemaking, including the proposed rules, by the end of July 2024, followed by a public comment period.

EQC involvement

DEQ intends to bring a rule proposal for the commission's consideration at the November 2024 EQC meeting. DEQ also intends to provide informational updates to the EQC throughout 2024.

Supporting materials

- A. [Climate Protection Program 2024 Rulemaking Website](#)
- B. [Climate Protection Program 2021 Rulemaking Materials](#)
- C. [Climate Protection Program 2021 Scoping Phase Public Engagement Report](#)
- D. [Climate Protection Program 2021 Advisory Committee Summary Report](#)

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