



State of Oregon Department of Environmental Quality

Written Comments: June 25 through July 17, 2024

CPP 2024 Rulemaking Advisory Committee Meeting 3

This document is a compilation of all written comments received in advance of the third advisory committee meeting held on June 25, 2024, through July 17, 2024.

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Oregon Department of Environmental Quality
Office of Greenhouse Gas Emissions

July 10, 2024

RE: Climate Protection Program 2024 Rulemaking - RAC #3

Dear DEQ Office of Greenhouse Gas Emissions:

The undersigned environmental justice, business, climate, public health, and community-based organizations from across Oregon applaud the commitment by Governor Kotek and the Department of Environmental Quality (DEQ) to reinstate Oregon’s Climate Protection Program without delay. Upholding and restoring these cornerstone climate and community protections is essential to prevent incalculable harm to Oregon families, workers, and local economies, now and in the future, and we urge you to ensure this process stays on track to reinstate the Climate Protection Program this year. We appreciate the opportunity to provide comments and feedback on the DEQ’s current draft 2024 Climate Protection Program rules and corresponding fiscal and racial impact statements.

Prior to the Court of Appeals’ decision to invalidate the rules on a procedural technicality, the Climate Protection Program was projected to achieve nearly half of the State’s targeted 45 percent emissions reductions by 2035, and invest hundreds of millions of dollars annually in environmental justice and other communities across Oregon. As we have expressed throughout the rulemaking process, we expect the DEQ to ensure the reestablished Climate Protection Program rules maintain the science-based and community-centered integrity of the previously-adopted program to ensure Oregon stays on track to meet its climate goals and deliver justice for Oregon communities.

Unfortunately, DEQ's current draft rules threaten to undermine the Climate Protection Program's ability to deliver near-term emissions reductions and benefits for environmental justice communities in Oregon. We offer the following comments and feedback in response to issues raised at the third Rulemaking Advisory Committee meeting, and urge DEQ to strengthen the current draft rules to:

1. Maintain a strong, effective, independent Community Climate Investment program that is responsive to and prioritizes environmental justice community needs and enables near-term investments in Oregon communities;
2. Adopt a science-based emissions cap that achieves at least the same level of cumulative emissions reductions by 2035 as the previously-adopted program and ensures near-term emissions reductions by requiring immediate compliance; and
3. Hold large stationary sources accountable to mandatory declining emissions targets under the cap.

We also offer comments and recommendations to strengthen DEQ's draft fiscal and racial impact statements to better reflect the economic, public health, cost-saving benefits of the Climate Protection Program and current draft rules. Thank you in advance for your consideration.

- 1. Maintain a strong, effective, independent Community Climate Investment program that is responsive to and prioritizes environmental justice community needs and enables near-term investments in Oregon communities.**

The Community Climate Investment (CCI) program was developed with extensive input from community members and environmental justice leaders to enable needed investments in community-led solutions to reduce our energy bills, make our homes safer, and make our air cleaner for generations to come. This critical component of the Climate Protection Program was on the cusp of being implemented when the court invalidated the program. Environmental justice and community-based organizations have already invested time and resources into developing potential projects and investment opportunities, and the reinstated rules must uphold the integrity of the CCI program that was designed and long-planned for Oregon communities. We are therefore strongly opposed to any proposals that would significantly undermine climate, cost saving, and environmental justice outcomes under the CCI program.

Redistribution of compliance instruments

We remain deeply concerned about DEQ's proposal to add compliance instruments to the initial 2025 emissions cap based on emissions reductions reported under the invalidated program.

Injecting additional compliance instruments that do not represent currently existing emissions into *any* cap and trade market jeopardizes the success of the climate policy, and any responsible regulator must carefully evaluate the risks and benefits of doing so. The prospect of injecting compliance instruments earned under an *invalidated* previous program is monumentally more perilous. In short, introducing additional compliance instruments **risks undermining the Climate Protection Program's ability to deliver near-term climate, economic, and public health benefits for environmental justice communities across Oregon.** As an initial matter, it is imperative that the program signal the need to rapidly reduce emissions; any "extra" compliance instruments will only serve to avoid or delay compliance efforts and investments.

Of grave concern, flooding the market with an oversupply of compliance instruments will likely have the secondary effect of diverting critical investments in emission reductions in Oregon, either those from the regulated entities or from projects in the CCI program. For environmental justice communities, the harm of current and past pollution from the intervening years cannot be undone. Community organizations will not be reimbursed for any time, effort, or funds that they invested in preparing projects under the CCI program. Providing retroactive and grandfathered credits would benefit fossil fuel companies' bottom lines at the expense of Oregon communities most impacted by greenhouse gas pollution. Doing so would perpetuate decades of harm and systemic injustices.

It is therefore inequitable and unjust to allow for covered fuel suppliers to benefit from the ability to bank or trade compliance instruments from a program that no longer exists and which many of them fought to overturn. In fact, doing so will set the CCI program up for certain doom. The three-year compliance period proposed in the current draft rules, combined with more than 4 million additional compliance instruments flooding the market at **the very beginning** of the program, will mean few or no investments in the CCI program for years to come. This is unacceptable; **justice delayed is justice denied.**

Offsets

We appreciate that the current proposed rules uphold the intended benefits of the CCI program by disallowing offsets. Offsets, which are investments in projects outside of the regulated economic sectors and able to be located far outside of Oregon, are not consistent with the Environmental Quality Commission's responsibility to "safeguard the air resources of the state" and "restore and maintain the air quality" of Oregon.¹ Offsets do not support environmental justice communities in the transition to clean energy, do not prevent climate emissions or health-harmful co-pollutants, and do not deliver clean air benefits to local communities. DEQ should continue its appropriate focus on furthering environmental and equity objectives, while achieving reductions in anthropogenic greenhouse gas emissions from fossil fuel combustion and associated co-pollutant emissions. Maintaining the scope and purposes of the CCI program will ensure consistency with the Environmental Quality Commission's statutory obligations, help contain costs for impacted communities that face disproportionate energy burdens, and *prevent* fossil fuel greenhouse gas emissions.

CCI price

We also commend DEQ for upholding the previously-established CCI price, which was fixed at an amount that would ensure that the CCI program not only supports emissions reductions in the regulated sectors, but also delivers public health, environmental, and economic benefits for environmental justice communities throughout Oregon. The CCI price is essential to ensure the program achieves emissions reductions while supporting vital capacity-building activities in environmental justice communities across the state. The two purposes for the price are tied together; emissions reductions cannot happen successfully without appropriate community engagement and capacity-building. We therefore support the current proposed CCI price, which will best ensure the CCI is able to deliver its intended climate, cost saving, and environmental justice outcomes.

¹ ORS 468.015; ORS 468A.010; ORS 468A.015.

CCI entity

The previously-adopted rules provided assurances that these investments will achieve their stated climate and equity goals by requiring non-profits to oversee the CCI program, and requiring CCI entities to partner with local and community-based organizations and pay for capacity-building in environmental justice communities. Moreover, as many RAC participants expressed during the third meeting, we remain concerned by DEQ's proposal to remove the requirement for CCI entities to be 501(c)(3) nonprofit organizations. Mission-based nonprofit organizations offer vital experience working to advance public interest goals, whereas for-profit companies are driven to maximize profits. We believe that maintaining the requirement for CCI entities to be 501(c)(3) nonprofits will best ensure projects are developed with input from communities, and are designed and implemented to maximize environmental and social justice outcomes for frontline communities in Oregon.

In sum, the hours of work to discuss options, investigate alternatives, and craft rules that meet the purposes of the Climate Protection Program—equity, cost, and emissions reductions—resulted in a product that uniquely benefits Oregon communities. It should remain in the new rules just as it was initially envisioned. Enshrining these key features of the CCI program and upholding the CCI price is vital to delivering tangible benefits to Oregon communities historically disenfranchised and disproportionately impacted by economic disinvestment, health challenges, and environmental harms.

2. Adopt a science-based emissions cap that achieves at least the same level of cumulative emissions reductions by 2035 as the previously-adopted program and ensures near-term emissions reductions by requiring immediate compliance; and

The emission reduction targets and corresponding base emissions cap and trajectory are essential to the overall integrity of the Climate Protection Program and moving the needle on climate emission reductions in the regulated sectors. If DEQ truly seeks to uphold a Climate Protection Program that “achieves greenhouse gas emissions reduction targets without sacrificing equitable outcomes and while limiting costs to consumers,” it must establish emission reduction targets and a cap trajectory that reflect the best available science. The United Nations Intergovernmental Panel on Climate Change (IPCC) says we must cut our emissions in half by 2030 to stay below 1.5 degrees of warming. We are very concerned that the program DEQ has devised in the current rules falls short of these important goals.

The science-based cap and trajectory from the previously-adopted Climate Protection Program represent a bare minimum to ensure Oregon stays on track to achieve its climate goals. It is imperative that DEQ **maintain an emissions cap trajectory that achieves the same level of cumulative emission reductions as the previously adopted Climate Protection Program rules. Specifically, DEQ should adopt at minimum the previously-established cap level for 2025 to adhere as closely as possible to the original cap trajectory.**

Redistribution of compliance instruments

As expressed above and in prior comments, we remain very concerned about DEQ's proposal to **increase the 2025 base cap** based on emissions reported during the years when the Climate Protection Program was in place. According to DEQ's emissions cap brief, using verified 2022 and preliminary 2023 emissions, this proposal would add roughly 4.2 million metric tons of emissions to the 2025 base cap. Adding these emissions would mean regulated entities would hold more allowances; flooding the market with an oversupply of compliance instruments will delay emissions reductions.

While we continue to support strategies to incentivize *future* early emissions reductions achieved under the reinstated program, DEQ should not reward emissions reductions from the intervening years when (1) the entities also received Clean Fuels Program credits, (2) the reductions resulted from customer demand and/or technologies out of their control like fleet efficiencies and increased EV adoption, and (3) the regulated entities seeking credit for emissions reductions are doing so under a policy they fought to overturn. We are especially concerned about adding instruments into the regular compliance instrument distribution that would likely deter emissions reductions and delay investments in technologies or strategies to reduce emissions, while signaling to regulated entities that they have nothing to lose by challenging DEQ's policy because they will benefit in the end regardless of the outcome. If DEQ insists on rewarding emissions reductions that took place during the intervening years, we urge you to instead consider allowing early actors to rely on a higher percentage of CCI credits for the first or future compliance periods.

Require Immediate Compliance

Likewise, we once again urge DEQ to require immediate compliance to make up for the three years already lost due to the oil and gas industry litigation and the urgent need to protect communities already impacted by climate change. We urge DEQ to adopt a one year compliance period schedule for 2025. Ensuring near-term emissions reductions is key to delivering public health benefits and alleviating burdens for impacted communities, by reducing harmful co-pollutants that disproportionately affect Black, Indigenous and People of Color communities, rural and low-income Oregonians.² Further, near-term reductions have the potential to provide significant economic benefits, by encouraging early investment in clean energy and other emissions-reducing technologies and innovations, providing immediate benefits for impacted communities, along with new opportunities and economic development across the state.

The reported 2022-2023 emissions data further demonstrates the feasibility of reducing emissions under this program, and underscores the need to **strengthen** the emissions baseline and cap trajectory and to require immediate compliance.

² Oregon Health Authority's 2020 Climate and Health in Oregon report underscored that rapidly accelerating climate change is intensifying public health crises in Oregon, hurting communities of color and tribal communities first and worst, and that these health risks will only get worse with continued inaction.
<https://www.oregon.gov/oha/PH/HEALTHYENVIRONMENTS/CLIMATECHANGE/Documents/2020/Climate%20and%20Health%20in%20Oregon%202020%20-%20Full%20Report.pdf>

The majority of the regulated entities have been preparing for climate regulation that rein in their emissions for well over a decade,³ and have been working to comply with their required emissions reductions under the previously-adopted Climate Protection Program rules. NW Natural, Cascade Natural Gas, Avista, BP, Shell, Chevron, Phillips 66, Marathon Fuels, HF Sinclair and others have already publicly pledged to reduce or eliminate their net emissions by 2050 or sooner. Not to mention, regulated gas utilities, transportation fuel suppliers, and large industrial facilities now have the opportunity to leverage billions of dollars in federal climate and clean energy investments under the Inflation Reduction Act, Bipartisan Infrastructure Law, and CHIPS & Science Act. With unprecedented funding available to support the transition to more efficient and electric homes and buildings, transportation systems, and industries, regulated entities have every means at their disposal to rapidly and affordably decarbonize and comply with greenhouse gas reduction targets in line with science.

3. Hold large stationary source industrial polluters accountable to mandatory declining emissions targets under the cap.

DEQ's proposal to recognize and accommodate some industries as emissions-intensive, trade-exposed (EITE) is a good way to provide certainty to Oregon-based industries, deliver meaningful emissions reductions, and improve air quality in impacted communities. For these reasons, we support DEQ's proposal to move the point of regulation from the utility to the EITE for those facilities' fossil fuel emissions. However, to limit the administrative burden on the agency, we continue to recommend that DEQ also regulate all process-based emissions under the cap. DEQ is proposing to impose on itself the obligation to calculate baseline emissions intensity values for each covered EITE source, while also preparing to call in some of the same sources for a Best Available Emissions Reduction (BAER) assessment. Further, the CPP should deter stationary sources from undermining Oregon's efforts to reduce emissions, but DEQ's proposal does not require new or existing stationary sources to meet any specific emissions limits at all for their process emissions - which can include potent short-lived climate pollutants like fluorinated compounds.

Covering large industrial source emissions under a declining cap is particularly timely given recent, historic federal investments in industrial decarbonization, including more than \$20 billion from the 2022 Inflation Reduction Act, as well as future investments from the CPP's Community Climate Investment program. These investments will support industrial efficiency upgrades and other technological advancements to enable emissions reductions from EITE facilities, and help ensure Oregon is able to capitalize on unprecedented federal incentives for technological innovation and advancement. Continuing to exempt these sources' process emissions from binding emissions reduction requirements will not only undermine the climate potential of the CPP, but will also fail to capitalize on unprecedented federal incentives for technological innovation and advancement.

³ The 2007 legislature established and directed the Oregon Global Warming Commission to "examine greenhouse gas cap-and-trade systems, including a statewide and multistate carbon cap-and-trade system" (ORS 468A.205); the Commission produced a report in 2009 urging Oregon to adopt

EITE

As the only existing state regulation on major industrial emitters, **responsible for roughly 20% of our state's total GHG emissions**, it is vital that the Climate Protection Program works to ensure science-based, sector-wide emissions reductions from large stationary sources in Oregon. **No matter how treatment of EITEs shakes out under the cap, DEQ must maintain the integrity and stringency of the overall cap decline to ensure meaningful emissions reductions under the program.**

Additionally, we heard objections from some of the potential EITE sources about a compliance instrument distribution based on emissions from calendar years 2017 through 2019; some of these sources identified a ramp up of production during the COVID years and argued for an average over a period of more recent years. As a practical matter, there will be a variation in reported emissions from each of the sources in the sector, and (if they had their way) each would choose a different period by which their compliance is measured. The average of emissions from 2017 through 2019, which is the period all other sources are measured by, is appropriate. We would not oppose covered EITE sources, who work diligently with DEQ to identify their emissions intensity baseline, to use that calculation to determine their compliance obligations during the first compliance period. However, there is no reason sources should benefit from changed rules that consider their EITE status while also getting to choose the emissions period from which their baseline is calculated.

We support DEQ's proposed trajectory for covered EITE sources of 7% per compliance period, as reflected in Table 8. As we have learned from other states and countries' experiences, a declining emissions limit on industry is what paves the way for upgrades like electrification and super efficient boilers, and for innovations in cleaner, less carbon intensive manufacturing. See, for example, Colorado's treatment of all of its industrial sources, including EITEs, which requires a 20% reduction of emissions from a 2015 baseline by 2030.⁴

We are amenable to a source that meets the EITE criteria set forth in Table 7, but which is not yet at the emissions threshold under Table 1, to apply to be treated as an EITE source. The table otherwise reflects the full gamut of industries that should be treated as EITEs. Given EITE entities will be awarded preferential treatment under the program, we urge DEQ to consider additional applicability criteria to determine eligibility for EITE sources such as a commitment to create or maintain good quality jobs, such as signing a labor peace agreement with a just transition plan, provide advanced notice to workers and local and state government of any planned closures and job impacts, and demonstrate a history of compliance of state and federal laws, and requiring a plan to reduce emissions and mitigate air quality impacts in local communities.

While some RAC members questioned whether reducing industrial process emissions is technologically feasible, there is a strong history and ongoing evidence demonstrating that process-based emissions reductions are not only possible but already underway. Intel, for example, has pledged to reduce its direct

⁴ Colo. Rev. Stat. 25-7-105(1)(e)(XIII).

and indirect emissions to achieve net zero by 2040.⁵ Evraz will decrease its scope 1 and 2 emissions 20% by 2030.⁶ And the associated health and economic benefits are multifold. Colorado’s economic benefits analysis reflected the following, according to Forbes magazine: Colorado’s “pollution reductions will provide \$1.13 billion total benefits. It prioritizes emissions reduction plans that also lower co-pollutants that can have serious health impacts, and accounts for impacts on communities near the facilities. Calculations incorporating the social cost of carbon project [industrial] GHG emissions reductions avoid \$968.2 million of future costs through 2050, and health benefits of co-pollutant reductions add a further \$170.6 million.”⁷

BAER

Holding industrial stationary sources accountable matters in protecting both community health and the climate, and is also important to maximizing economic benefits under the program. **We therefore continue to urge DEQ to amend the rules to cover large industrial sources’ process emissions under the cap, which will assure the best outcomes for achieving Oregon’s emissions reduction goals while improving air quality and public health in impacted communities.** As DEQ highlighted in the first RAC meeting, at the time of the court’s ruling—two years into program implementation—DEQ had yet to complete a single assessment for large industrial facilities regulated under the BAER program. Without adequate changes, the BAER program will continue to lag, meaning that emissions from these sources will continue unabated, with negative impacts for air quality and public health for neighboring environmental justice communities in Oregon.

If DEQ insists on maintaining a BAER approach for process emissions, we urge you to strengthen the program requirements to better ensure meaningful emissions reductions and public health benefits for communities. We remain concerned that, under the current draft rules, an entity’s progress under BAER would not necessarily be tracked on emissions, but rather on whether they implement certain identified actions (e.g. buying a more efficient boiler). Therefore, an entity could implement all identified technologies or actions, still increase emissions, and still be in compliance with this program. Further, we are concerned that the draft rules do not specify how long an entity would have to implement identified measures. At minimum, the rules should require that DEQ translate its final BAER determinations into mandatory emissions reduction requirements in-line with the overall declining cap trajectory, as is required under similar air quality programs.

Especially given the lack of progress in BAER implementation during the years the Climate Protection program was in place, we continue to be concerned that DEQ’s proposed rules do not provide assurances that the BAER approach will be rigorously enforced. Specifically, we are concerned that the draft rules continue to rely on regulated entities to self-identify their own BAER implementation plan and play a primary role in self-reporting what BAER strategies are available to them. We would strongly urge DEQ

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<https://www.intel.com/content/www/us/en/newsroom/news/net-zero-greenhouse-gas-emissions-operations.html#gs.9341xv>

⁶ <https://www.evraz.com/en/sustainability/environmental-stewardship/climate-change/>

⁷ Forbes, Colorado’s Next Big Climate Solution is Reducing Industrial Emissions (Aug. 13, 2023), available at <https://www.forbes.com/sites/energyinnovation/2023/08/13/colorados-next-big-climate-solution-is-reducing-industry-emissions/>.

to revise the rules to require the use of a DEQ-approved qualified third party auditor for each entity, creating a pollution reduction evaluation that covers both greenhouse gases and pollutants that impact local health. A third party auditor can also help ensure that entities prioritize on-site reductions, and identify and consider local air pollution impacts and expected health benefits when determining what technologies are “available.”

Further, we are concerned that BAER assessments will only be *reviewed*--rather than assessed--every five years under the proposed rules. In an increasingly carbon-constrained economy, with rapidly accelerating technology changes and breakthroughs, a five-year timeframe is simply too long to keep current with the best available technologies. **We would urge DEQ to strengthen this language to require BAER be assessed no less than every three years.** Working backward from how to ensure GHG reductions are factored into major decisions by the regulated entity (boiler upgrades, other major asset acquisitions, technology changes or renovations, changes in ownership, etc.) will help ensure emissions reductions are maximized and will mitigate the risk of stranded assets. Given the lag in implementation demonstrated under the first two years of the BAER program, we urge DEQ to strike the language allowing sources to petition for more time or challenge a BAER determination, which could result in even further delays.

We feel strongly that the current BAER program lacks community and environmental justice guarantees. As currently written, the rules provide the public and nearby community organizations a mere 30 days from the date of the public notice to analyze, comprehend, and develop a response to a technical document. This creates undue burden for affected communities to respond in a meaningful way. Furthermore, the rules do not contain assurances that the impacted community will receive the technical assistance to understand the details of the BAER documentation. Without technical assistance, an impacted community may not be able to fully assess the impacts to community health and well-being. We recommend that the DEQ correct the inequitable burden placed on impacted communities by amending the proposed rules to include technical assistance, facilitated community meetings and no less than a 60 day public comment period and to clarify how the agency will incorporate public comments into BAER determinations. Finally, we encourage DEQ to consider requiring a good neighbor agreement or community benefit agreement between the regulated entity, community, labor, and DEQ.

To summarize, we believe the costs of delays and inaction under the BAER program may be higher than the DEQ’s budget can bear compared to process emissions being regulated under the cap, and more traumatic than impacted communities can - or should have to be asked to - tolerate while they endure the burden of climate-fueled health, safety and economic damage.

Fiscal Impact Statement

Direct Economic Impacts

Emissions reductions and community investments under the Climate Protection Program give Oregon the opportunity to spur job growth and technological innovation, improve public health, and create cleaner, cheaper, healthier energy and transportation options that will benefit Oregon jobs, families, and the economy. We are therefore pleased that DEQ’s draft fiscal impact statement rightfully acknowledges that directly reducing emissions under the CPP has the potential to benefit business for covered entities and

Oregon’s economy as a whole. This assessment is in line with economic analyses that have clearly shown that emissions reductions can serve to reboot our economy and set it up for long-term success.

For example, independent modeling conducted in 2022 by Energy Innovation found that—if well implemented—the Climate Protection Program, along with other recently-adopted Oregon climate policies, will add nearly 10,000 jobs and \$2.5 billion to Oregon’s GDP in 2050.⁸ We urge DEQ to utilize this Energy Innovation modeling, which found that strong implementation of the CPP and complementary state policies will also avoid 600 asthma attacks and 40 premature deaths annually in 2050, with avoided deaths 40 to 90 percent greater for people of color. The modeling found that these health care benefits will amount to a cumulative \$49 billion in avoided health care costs through 2050.⁹ By requiring covered entities to reduce emissions, the CPP will incentivize innovation and technological development that will benefit the state economy rather than weaken it.

We urge DEQ to strengthen the draft fiscal and economic impact statement by incorporating cost savings afforded by shifting to decarbonized ways of doing business and zero-emissions technologies. For example, in the transportation sector, electric vehicles (EVs) provide substantial lifetime cost savings in comparison to gasoline and diesel-fueled vehicles. In Oregon, an EV is estimated to save its owner between \$11,000 and \$14,000 in fuel costs alone.¹⁰ The U.S. Department of Energy estimates that it costs approximately \$0.99 per eGallon to drive an EV in Oregon, compared to \$4.03 per gallon¹¹ to drive a gasoline vehicle.

In the building sector, the shift from natural gas to electric systems and appliances also carries substantial cost savings. For example, the American Council for an Energy-Efficient Economy estimates that high-efficiency electric heat pumps save Oregon consumers approximately \$2,000 to \$3,000 over the systems’ lifetimes when compared to gas furnaces.¹² Leading deep decarbonization studies for West Coast states confirm it is more cost effective to electrify most current uses of natural gas (coupled with deep energy efficiency), particularly for reducing these emissions in residential and commercial buildings.¹³

Replacing gas or other fossil fuel appliances with cleaner all-electric alternatives will not only provide savings on utility bills but also on healthcare costs, through healthier living environments for Oregon families. A robust body of scientific research shows that pollution from gas appliances can produce

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<https://energyinnovation.org/publication/oregon-energy-policy-simulator-insights-recent-developments-policies-to-meet-emissions-goals/>.

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<https://energyinnovation.org/2022/03/10/new-oregon-energy-policy-simulator-modelling-shows-major-benefits-of-accelerating-climate-policies/>

¹⁰ Brennan Borlaug, et al., Levelized Cost of Charging Electric Vehicles in the United States (July 15, 2020), [https://www.cell.com/joule/pdfExtended/S2542-4351\(20\)30231-2](https://www.cell.com/joule/pdfExtended/S2542-4351(20)30231-2).

¹¹The average price of regular octane gas in Oregon (July 7, 2024): <https://gasprices.aaa.com/?state=OR>.

¹² Steven Nadel, Comparative Energy Use of Residential Gas Furnaces and Electric Heat Pumps (2016): <https://www.aceee.org/sites/default/files/publications/researchreports/a1602.pdf>.

¹³ WA Commerce Agency, Washington State Energy Strategy, First draft released in Nov. 2020: <https://www.commerce.wa.gov/wp-content/uploads/2020/11/WA-2021-State-Energy-Strategy-FIRST-DRAFT-2.pdf>

dangerous levels of health-harming pollutants, often exacerbating respiratory conditions like asthma.¹⁴ In Oregon, burning fossil fuels in buildings was responsible for 20 premature deaths and \$221,326,511 in health impacts in 2017; 89% of those impacts were from burning gas in buildings.¹⁵ This is a conservative estimate because it only includes health impacts from outdoor PM2.5 and precursor pollution; it also does not include pollution from upstream extraction.

As we transition off of fossil fuels, the major direct economic impacts and savings discussed above will have a multiplier effect. These benefits cannot be exported out of state, but rather circulate multiple times in our own economy and therefore further boost Oregon's economic growth and job creation as we align to a cleaner future.

Renewable energy is not only cheaper overall, it does not suffer from wild price volatility like gas.¹⁶ Therefore, emissions reductions under the Climate Protection Program will protect consumers from future price fluctuations. The more we can move toward electric vehicles and appliances, the less we have to worry about the price of oil and gas being determined half a world away. Electrification and cleaner ways of making those fuels exist right here in Oregon. The Climate Protection Program will help us deploy those technologies at scale, providing cost-savings, job creation, and healthier living environments for people and families across Oregon.

Leveraging Federal Investments

The Climate Protection Program also affords Oregon businesses and consumers the opportunity to leverage unprecedented federal investments through the Inflation Reduction Act (IRA). According to forecasting by Goldman Sachs, the IRA represents a \$3 trillion investment opportunity by 2032. The IRA includes more than \$37 billion in tax credits and rebates for residential and commercial building electrification and efficiency; \$28.2 billion for transportation electrification and clean fuels; and \$60 billion for industrial decarbonization and clean energy technology manufacturing. The CPP will help ensure that Oregon is well-positioned to leverage these unprecedented federal investments, which will in turn further drive down home energy and transportation costs, support industrial decarbonization, and create and sustain jobs in Oregon.

According to the White House's own estimates, hundreds of thousands of low- and moderate-income households in Oregon will be eligible for rebates that will cover 50-100% of the cost of installing new electric appliances; roughly 75,000 Oregon households to install rooftop solar panels, as a result of tax credits covering 30% of installation costs, and further increase energy affordability thanks to tax credits covering 30% of the costs of community solar projects. If fully leveraged, grant incentives for the state to strengthen building energy codes would save the average new homeowner in Oregon 5.1% on their utility

¹⁴ Brady Seals, Rocky Mountain Institute, Indoor Air Pollution: the Link between Climate and Health (May 5, 2020): <https://rmi.org/indoor-air-pollution-the-link-between-climate-and-health>.

¹⁵ Jonathan J Buonocore (Harvard T.H. Chan School of Public Health) et al, A decade of the U.S. energy mix transitioning away from coal: historical reconstruction of the reductions in the public health burden of energy, (2021): <https://doi.org/10.1088/1748-9326/abe74c>.

¹⁶https://www.theguardian.com/business/2021/sep/21/government-should-have-moved-earlier-to-low-carbon-say-industry-experts?utm_campaign=C%26S%20Gas&utm_source=hs_email&utm_medium=email&_hsenc=p2ANqtz--7WcT24tGuVFNnu7cGmjQYu-rPiSluVCcdO02PIZCIJS7uDIkhE1_cusdAJwi7SvNmlEwR.

bills. And millions of Oregonians will be eligible for upfront discounts on electric vehicles, up to \$7,500 for new EVs and \$4,000 for used EVs.

We urge DEQ to update the draft fiscal impact statement to better reflect the economic benefits of IRA investments, which will increase access to the clean energy economy by helping Oregonians afford efficient home appliances, electric vehicles, and other clean energy technologies, create thousands of good-paying jobs for Oregonians, building on our existing clean energy workforce, and save Oregon families money at the pump and on their utility bills.

Costs of Inaction

While the economic impacts from Climate Protection Program compliance will likely be positive when aggregated across Oregon's economy as a whole, the costs of inaction—the failure to achieve science-based emissions reductions—may be higher than the state's economy can bear. Climate change is already producing devastating impacts for Oregon's economy and frontline communities. We urge DEQ to update the draft fiscal and racial impact statement to quantify the devastating costs of climate inaction.

The destruction caused by recent climate-fueled weather events and natural disasters, such as wildfires, droughts, and unprecedented heat waves, have price tags in the billions of dollars. The 2023 Oregon Climate Change Research Institute's Sixth Oregon Climate Assessment emphasized that "Oregon's economy and gross domestic product (GDP) remain highly impacted" by climate change, threatening multiple sectors, industries, and communities across the state. As underscored by OHA's 2023 Climate and Health in Oregon report, these climate hazards disproportionately harm the health and wellbeing of communities of color, Tribal communities, low-income, and other environmental justice communities more than other populations.¹⁷ These costs are projected to rise dramatically as the climate crisis worsens.

By reducing climate-change causing fossil fuel emissions, the Climate Protection Program will result in substantial benefits for our workers and our economy, including reduced health care costs, job loss prevention, avoided future business closures, and sustaining Oregon's natural resource economy. In December 2023, U.S. Environmental Protection Agency economists updated the federal social cost of carbon, which estimates the economic impact of climate change.¹⁸ The new estimate of the social cost of carbon calculates the harm to the economy caused by climate pollution as **\$190 per ton of carbon dioxide emissions**. Utilizing accurate data and cost information, including the federal social cost of carbon, is key to adequately assessing the economic and cost-saving benefits of reducing emissions under the Climate Protection Program. We therefore urge DEQ to update its draft fiscal impact statement to reflect the federally adopted social cost of carbon.

Dangerous Delay Tactics

Given the decades of harm and misinformation that polluting industries have already inflicted on the public—not to mention the impacts to come as climate change worsens—it is unconscionable that fossil

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https://www.oregon.gov/oha/PH/HEALTHYENVIRONMENTS/CLIMATECHANGE/Documents/le-105251_23.pdf

¹⁸ <https://www.epa.gov/environmental-economics/scghg>.

gas utilities and oil companies continue to promote misinformation about the costs of compliance and economic impacts under the Climate Protection Program. We want to ensure the draft fiscal and economic impact statements accurately reflect compliance costs and benefits as well as the economic impacts and benefits rather than based on hyperbole or misinformation supplied by the very industries challenging this program's very existence. In spite of pledges to reduce their climate pollution, their tactics have already led to this delay in implementing the CPP and have cost taxpayer dollars and precious state resources to pay for this redo of the rulemaking process.

Criticism that the cost of CCIs is too expensive, compared to allowance or offset costs in other jurisdictions, misrepresents the actual cost of compliance in each jurisdiction. In Oregon, CCIs are available to regulated entities which have not directly reduced their emissions in the amount necessary to rely solely on the free allowances DEQ distributes to them. In other jurisdictions, regulated entities must purchase allowances for all or most of their total emissions. While technically a lower price for each allowance, the cost per allowance is applied to a much greater volume resulting in higher compliance costs. Regulated entities should, in fact, take some comfort from the fact that there is a price called out in the draft rules at all. A price captured in regulation offers transparency, consistency, and assurances for planning purposes.

Likewise, criticism that CCI investments result in uncertain emissions reductions that will take place in the near future overlooks the comparative benefits between a CCI investment and any alternative. The energy efficiency and fuel switching measures expected to be implemented with CCI funds have proven measurement and validation protocols, just like (for example) Renewable Thermal Certificates produced from biomethane projects. However, unlike RTCs from biomethane projects in other parts of the United States, CCIs generate year-after-year reductions well beyond their initial payback period. Therefore the cumulative emission reductions generated by CCIs will exceed those generated by annual purchases of RTCs.

A relatively straightforward analysis shows that **Oregon's program is less expensive than others**. For example, in many likely scenarios, compliance under the Climate Protection Program is less expensive than the costs would be under Washington's cap and trade program. This is because it costs less to buy a small quantity of credits at \$123 per ton than to buy a much larger quantity of credits at \$40 or \$50 or \$60 per ton.

Delivering Racial Justice

As we have expressed in written and verbal comments throughout this rulemaking process, maintaining the science-based and community-centered integrity of the Climate Protection Program is essential to prevent incalculable harm to Oregon families, workers, and local economies, and to ensure the program stays on track to deliver its climate, economic, and public health benefits for environmental justice communities across Oregon. We appreciate that DEQ's draft racial equity impact statement recognizes the important benefits of reducing air and climate pollution in Oregon's most impacted and frontline communities under the Climate Protection Program.

Unfortunately, by delaying emissions reductions and community investments for years to come, the current proposed rules threaten to severely compromise the public health, economic, and employment benefits for environmental justice communities in Oregon, and will very likely hinder benefits for Oregon consumers, workers, and local economies across the state.

DEQ's racial equity impact statement is predicated on the deployment of CCIs in environmental justice communities throughout Oregon. However, under the current draft rules, regulated entities are not required to demonstrate compliance with the program until 2028. An initial three year compliance period, coupled with DEQ's proposal to inject more than 4 million compliance instruments to the 2025 base cap, has the potential to flood the market such that it may be up to 10 years or more before any CCI contributions are made. This risks nullifying much of the DEQ's racial equity impact statement for the reinstated CPP, and represents yet another broken promise to environmental justice communities.

If DEQ maintains its current proposal to add compliance instruments to the 2025 base cap based on reported emissions during the years that the Climate Protection Program would have been in place, it must revise the fiscal and racial impact statements to more adequately reflect the adverse impacts of the current proposed rule amendment to local governments, jobs, and businesses. By diverting and delaying investments that would otherwise reduce air and climate pollution, improve resilience, and create jobs, and by enabling fossil gas and industrial emissions to persist, in environmental justice communities in Oregon, DEQ's current proposed rules stand to exacerbate economic and racial injustices in Oregon.

For the above reasons, we once again strongly urge DEQ to strengthen its proposed rules to protect the integrity of the Climate Protection Program, by prioritizing near-term emissions reductions under the cap and community investments under the CCI program.

Uphold the established rulemaking timeline and commitment to restoring the rules this year.

We appreciate the opportunity to provide comments and all the work DEQ leadership and staff have put into this process to restore the Climate Protection Program. Every day that these landmark climate protections are delayed represents another day that justice is denied to Oregon communities— especially rural, low-income, and communities of color, who stand to benefit the most from emissions reductions and economic prosperity under the Climate Protection Program. **We therefore urge DEQ to uphold its commitment to a timeline that results in re adoption of the Climate Protection Program rules this year.**

We are in the decisive decade for climate action. Without the Climate Protection Program, Oregon simply does not have an adequate or workable plan to achieve the state's climate goals. Our state also misses out on the innovation, job creation, and energy cost savings that this program will drive, which are vital for our economy and household budgets. It is imperative that the State hold firm in its progress toward growing clean energy industries that create local, high-quality jobs across Oregon.

Oregonians have long demanded that fossil fuel companies take responsibility for the devastating harm they cause to our lives, our families, and our communities. We cannot afford to continue jeopardizing the lives and livelihoods of our communities for the sake of preserving the status quo. Now, it is up to DEQ

leadership to swiftly restore the protections we need to ensure a healthy climate future for all Oregon families.

We look forward to seeing this program reinstated before the end of 2024 so that we can get back to the urgent work of investing in low-income, rural and communities of color who have borne the brunt of climate and economic injustice for too long.

Sincerely,

Lisa Arkin
Executive Director
Beyond Toxics

Karen Harrington
Legislative Committee Chair
Climate Reality Project Portland Chapter

Meredith Connolly
Oregon Director
Climate Solutions

Audrey Leonard
Staff Attorney
Columbia Riverkeeper

Charity Fain
Executive Director
Community Energy Project

Stuart Liebowitz
Facilitator
Douglas County Global Warming Coalition

Molly Tack-Hooper
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Brian Stewart
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Jessica Nischik-Long
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Familias en Acción

Nora Lehmann
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Carra Sahler
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Green Energy Institute at Lewis & Clark Law School

Lisa Bentson
President
League of Women Voters of Oregon

Pat DeLaquil
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Mobilizing Climate Action Together

Nakisha Nathan & Mary Peveto
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Tim Miller
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Nora Apter
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Janet Lorenzen
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Climate Policy Manager
350PDX

Oregon Department of Environmental Quality
Office of Greenhouse Gas Emissions

July 10, 2024

RE: Climate Protection Program 2024 Rulemaking - RAC #3

Dear DEQ Office of Greenhouse Gas Emissions:

Beyond Toxics is a statewide environmental justice organization based in Oregon and I am an appointed member of the Climate Protection Program Rules Advisory Committee. Thank you very much for the opportunity to participate in this important program development. We strongly urge the DEQ to move with alacrity to put a price on carbon and develop and implement a GHG and climate pollution emissions reductions program. Please accept these comments specifically addressing the CCI Entity and the BAER program.

I. Non-Profits as Community Climate Investment Entities

Beyond Toxics is strongly opposed to the proposed rule change that would allow entities other than nonprofits to serve as CCI Entities. Based on our experience working in communities, we understand this would significantly undermine climate, environmental pollution and environmental justice outcomes under the Community Climate Investment program. A non-profit has a legal mission to serve communities, to be community-centric, to have staff that represent the community served and to uphold environment-oriented goals – which are mandated by the Community Climate Investments (CCI) rules.

This is not true of for-profits businesses. A business created on a for-profit model is beholden to owners and stockholder profits. For example, in regard to the CCP program itself, for-profit businesses have already stated that they intend to pass on any costs of reducing GHG emissions to their rate payers, or in their own words, they will put the costs” on the backs of the rate payer.” This is neither community-centric nor community serving. This is because their ultimate allegiances are to maintain maximum profits for owners and stockholders.

This is the antithesis of a nonprofit entity, who is not allowed to benefit from profits. Nonprofits, particularly those with prior experience in vetting programmatic effectiveness, program implementation, and the art of developing community partnerships can serve as transparent partners to deliver public health, environmental, and economic benefits for environmental justice communities.

We urgently ask that the DEQ not make this change, which undermines the commitment to environmental justice (EJ) and exacerbates the systemic bias the CPP aims to address and correct. A better way to attract more non=profits to apply to the CCI program would be to enhance outreach to non-profits and make the process more accessible.

II. BAER Program OAR 340-273-0310

While we appreciate the effort to create rules that incorporate the CPP conditions into modified Air Contaminant Discharge Permits or Title V Operating Permits for qualifying businesses and industries, our concern is that the BAER rules, taken as a whole, create an unnecessarily long and drawn-out compliance process. As we see it, the proposed rules significantly diminish DEQ's authority to hold polluters accountable to comply with effective regulations and meaningful timelines and benchmarks.

As currently written the rules will likely permit a pattern of ongoing delays for entities to provide required reports, to receive DEQ approval of their BAER plan and to implement the final BAER order. The BAER rules should be written to avoid endless delays and foot-dragging on the part of polluters.

Overall, we request the following modifications to strengthen the rules in OAR 340-273-0310:

1. Give equal consideration to the climate, health and air quality benefits of implementing BAER rather than giving preferential weight to the economic impacts.
2. Modify the rule to better define how a BAER order will meet GHG reduction goals and set forth a strict timeline to achieve those benchmarks.
3. Industrial emitters that delay implementing the BAER order as directed by the DEQ should incur civil penalties.
 - Section 3 is vague and could allow repeated noncompliance. We recommend that the DEQ establish a set number of days for an entity to submit a revised BAER assessment report.
 - Section 6 should have language limiting the number of requests for an extension to one (1) request. Currently there is no limit to the number of requests a reporting entity can make. This may result in endless implementation delays.
4. Regarding OAR 340-273-0310 2(d)(B), we strongly recommend that the rules provide a definitive description of what constitutes "impacts to nearby residents." For example, impacts may include exposure to chemical emissions that increase rates of respiratory, cardiovascular, cancer or birth defects. The estimate of "impacts to nearby residents" must include citations to published research.

III. Community and Racial Equity Recommendations OAR 340-273-0320 Section 2(j)

We feel strongly that the proposed rule lacks community and environmental justice guarantees. Overall, the BAER rules award the climate polluter with overly generous months and years to comply with the BAER order by omitting deadlines and benchmarks and providing unlimited extensions as described above. However, the rules in 2(j) seem to unnecessarily limit the impacted community's input.

As currently written, the rules provide the public and nearby impact communities a mere 30 days from the date of the public notice to analyze, comprehend and develop a scientifically based response to a technical document. This creates burdensome pressures for a community to prepare a meaningful and fact-based response.

Furthermore, the rules do not contain an assurance that the impacted community will receive the technical assistance to understand the details of the BAER documentation. Without technical assistance, an impacted community may not be able to fully assess the impacts of community health and well-being.

We recommend that the DEQ correct the inequitable burden placed on the impacted community by amending the proposed rules to include technical assistance, facilitated community meetings and a longer public comment period (recommend no less than 60 days). Furthermore, the DEQ should state clearly how the agency will apply public comments to the BAER process and how the agency will give weight to public comments.

To summarize, we believe the costs of delays and inaction on climate and carbon reductions to date may be higher than the people of Oregon and our government can bear and more traumatic than impacted communities can tolerate while they endure the burden of increased health, safety and economic detriments of climate change.

Sincerely,

Lisa Arkin, Executive Director

Beyond Toxics

PO BOX 1106

Eugene, OR 97440



NW Natural[®]
We grew up here.



**Joint Comments of Avista Corporation,
Cascade Natural Gas Corporation, and NW Natural**

Re: Climate Protection Program 2024 Rulemaking Advisory Committee Meeting #3

July 10, 2024

Oregon Department of Environmental Quality
CPP.2024@deq.oregon.gov

Avista Corporation, Cascade Natural Gas Corporation, and NW Natural (collectively, “Utilities”) offer the following comments to the Oregon Department of Environmental Quality (“DEQ”) in response to the third Climate Protection Program (“CPP”) 2024 Rulemaking Advisory Committee (“RAC”).

The Utilities share the CPP’s goals of achieving emissions reductions in a cost-effective, equitable manner. However, as the Utilities have emphasized throughout this process, we have a number of legal concerns regarding DEQ’s statutory authority for this program. Specifically, gas utilities are not “air contamination sources” within the meaning of ORS 468A.005(4) for the emissions from Oregon homes and businesses that DEQ seeks to regulate. Additionally, the current draft rule impermissibly regulates emissions from residential heating appliances, even though ORS 468A.020(d)(1) specifically exempts such emissions from Oregon’s air pollution laws. And as detailed in our previous letter in response to the second RAC meeting, ORS 468.065(2) does not allow DEQ to charge fees as a method of compliance for air permits, which is effectively what DEQ is doing with the Community Climate Investments (“CCI”) portion of the program.

Setting aside these foundational legal concerns, in order to help ensure the CPP is as effective as possible if it proceeds, this letter focuses on (1) the need for a cost cap mechanism; (2) a CCI program specific to gas utilities; (3) offsets; and (4) suggested improvements and clarifications regarding DEQ’s fiscal impact statement.

The Need for a Cost Cap

The Oregon Public Utility Commission’s (“PUC”) presentation at the most recent RAC meeting confirms the need for a cost cap. The PUC estimates that the CPP will impose at least \$150 million in new costs for gas utilities in just the first two years of the program, which will translate to an “immediate” rate increase of approximately 10% in year one of the program alone. As the PUC clarified, while rates may increase or decrease in any given year due to a multitude of factors, the PUC made these particular estimates looking at the CPP in isolation.

Similarly, the Utilities anticipate that starting with the same 2025 emission reductions as under the previously invalidated CPP rule will have significant negative cost impacts on Oregon families and businesses. In the presentation provided by PUC staff, the estimate of a 10% rate

increase from the program implementation alone in the first year of compliance for residential customers is approximately in range with the preliminary values the Utilities are calculating using the recently updated rules and baseline. It is likely that as the CPP's cap stringencies increase, so will customers' energy bills. To ignore these impacts would jeopardize the CPP's equity prong, which emphasizes that emissions reductions should be made in a manner that promotes equity.

The Utilities recommend instituting a cost cap that aligns with the cost cap for electric utilities reflected in House Bill 2021, which the PUC highlighted in its presentation. Under HB 2021, electric utilities must reduce greenhouse gas emissions associated with electricity sold to Oregon consumers to 80% below baseline emissions levels by 2030, 90% by 2035, and 100% by 2040. But, if the utility's actual or anticipated cumulative rate impact for compliance with the law exceeds 6% of its annual revenue requirement, the PUC shall provide an exemption from further compliance. Importantly, the exemption must be "narrowly tailored" and "limited in duration to only such time as is necessary to allow for additional investments and actual or forecasted costs to be made or incurred without exceeding the cumulative rate impact." ORS 469A.445(4).

In order to ensure gas customers receive similar protections that electric customers receive in achieving emissions reductions, DEQ should include the same cost cap for gas customers as reflected in House Bill 2021 that specifies DEQ will grant a narrowly tailored, limited exemption upon a PUC finding that actual or anticipated CPP compliance costs exceed 6% of a particular utility's annual revenue requirement.

Support for Gas Utility Community Climate Investment Program

The Utilities reiterate the request to have a CCI program specific to gas utilities, or at the very least, allow gas utilities to partner with CCI entities and implementers. Utilities have experience partnering with community action agencies and nonprofit organizations to deliver energy efficiency programs. Leveraging that experience to the benefit of nonprofit implementing organizations could serve to increase the speed of deployment of emission reduction programs.

The RAC Meeting #3 discussion further supports the improvements to the CCI program previously recommended by the Utilities.¹ Specifically—

- **In general, there is no independent regulatory oversight of nonprofits.** Nonprofits are subject to only minimal oversight under the CPP and no oversight without the CPP in most instances. It is unclear at best whether these organizations would have a duty to implement or even return CCI funds if the program were invalidated—or how DEQ could attempt to enforce that duty. In contrast, utilities are subject to extensive oversight by the PUC could continue implementation of CCI programs even if the CPP is invalidated, provided the PUC deems such programs prudent and beneficial to customers.
- **Nearly a quarter of CCI fees may be spent on overhead instead of reductions.** Under the current draft rule, 4.5% of the CCI funds will go towards administrative fees for DEQ, and CCI entities will have their own administrative costs to cover as well. Under this model, nearly 25% of the CCI funds may go towards covering administrative costs rather

¹ See Joint Utility Comments on CPP RAC Meeting #2 (May 22, 2024).

than emissions reductions. Gas utility customers should not be required to subsidize nonprofits. This is especially true when expanding the eligible universe of CCI entities to include gas utilities would achieve emissions reductions more cost-effectively and increase the likelihood that a CCI credit would actually represent one metric ton of a carbon dioxide equivalent reduction. There simply is no reasonable basis for restricting CCI entity eligibility to nonprofits—a category so narrow that even tribes are ineligible. It would be far more cost-effective and environmentally beneficial to pay CCI fees directly to entities implementing projects than to a nonprofit middleman.

- **The draft fiscal impact statement assumes utilities will implement CCI programs.** In its draft fiscal impact statement, DEQ appears to have assumed that gas utilities will be involved in implementing CCI projects. In determining CCI prices, DEQ notes ICF estimated that the costs to reduce emissions from natural gas may range from \$64 to \$188 (2020 dollars) per metric ton of emissions reduced, and that these costs included the cost of equipment for energy efficiency and fuel costs, assuming the introduction of RNG.² But these emission reduction measures are projects that the gas utility implements, not CCI entities. As such, using this range to inform CCI prices does not make sense—unless gas utilities can have a CCI program unique to themselves and their customers.

The Benefits of Offsets

The Utilities again urge DEQ to include an actual offsets program in the CPP. Having additional cost-effective compliance mechanisms is crucial, given the above estimated rate impacts of the current program.

As discussed previously, offsets are an essential cost containment element in cap-and-reduce programs, including in the Washington and California programs.³ Like the offset programs in Washington and California, DEQ could cap the use of offsets so that they can only be used for a relatively small percentage of a covered entities' compliance obligation. This approach will ensure significant emissions reductions within Oregon while maximizing cost-effective emissions reductions overall.

Finally, to the extent Oregon is considering the possibility of linking the CPP to the broader carbon market under development by Washington, Oregon, and Québec, it should recognize the same validated offset programs that other leading climate programs recognize. As these governments have explained, “Linking the California-Québec carbon market and the Washington carbon market would enhance the ability of all three jurisdictions to work together to develop and implement cost-effective programs to fight climate change, while allowing each jurisdiction to

² DEQ, *Draft Fiscal Impact Statement*, 12 (June 2024).

³ CARB, *Compliance Offset Program*, <https://ww2.arb.ca.gov/our-work/programs/compliance-offset-program> (last visited May 18 2024); Washington Department of Ecology, *Cap-and-invest offsets*, <https://ecology.wa.gov/air-climate/climate-commitment-act/cap-and-invest/offsets> (last visited May 18, 2024).

maintain authority over its own program’s design and enforcement.”⁴ Notably, Washington is now undertaking a rulemaking to facilitate linkage between its cap-and-trade program and the programs in California and Québec,⁵ and the proposed CPP is not positioned to align with these efforts.

Fiscal Impact Statement Improvements and Clarifications

The Utilities request that DEQ invest time and resources in conducting a fiscal impact statement that is tailored to the new CPP program, which is a new rulemaking and fundamentally differs from the previous program. In addition to failing to meet DEQ’s rulemaking obligations, solely relying on cost analyses from the previous CPP program will not adequately inform the public of the costs associated with the new regulation DEQ plans to propose.

Additionally, the Utilities ask that DEQ be more transparent regarding exactly how it has chosen the number it has for CCI prices. The draft fiscal impact statement does not make DEQ’s rationale clear regarding the particular numbers it has selected. In particular, if gas utilities are not eligible to implement CCI projects, then DEQ should not base its rationale for CCI prices on the ICF analysis conducted for the previous CPP program, as this analysis assumed the costs of implementing RNG projects that gas utilities rather than nonprofit entities currently implement.

Lastly, during the most recent RAC meeting, DEQ appeared to indicate that the agency included only propane suppliers in the small business impact analysis. The Utilities ask DEQ to confirm if this is correct. The Utilities also ask DEQ to provide clarification on how the agency intends to model the impacts of the CPP-induced rate increases associated with small businesses reliant on energy services. The Utilities recommend that DEQ consider how these businesses will be impacted as well in its small business impact analysis.

The Utilities appreciate the opportunity to engage with DEQ and share their ideas for improving the CPP’s next iteration. We look forward to the opportunity to improve upon the rule and help ensure that its design offers diverse and inclusive pathways to decarbonization that manage costs while resulting in emissions reductions for our customers. If you would like to further discuss this letter or have any questions, please reach out to Mary Moerlins (mary.moerlins@nwnatural.com), Shaun Jillions (shaun@jillionsgroup.com), and Abbie Krebsbach (abbie.krebsbach@mdu.com).

Sincerely,

s/ Mary Moerlins

⁴ Washington Department of Ecology, *California, Québec and Washington agree to explore linkage*, (Mar. 20, 2024), <https://ecology.wa.gov/about-us/who-we-are/news/2024-news-stories/mar-20-shared-carbon-market>.

⁵ Washington Department of Ecology, *Chapter 173-441 and 173-446 WAC, Cap-and-Invest Linkage*, <https://ecology.wa.gov/regulations-permits/laws-rules-rulemaking/rulemaking/wac-173-441-446-linkage> (last visited July 5, 2024).

Mary Moerlins
Director of Environmental Policy &
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NW Natural

s/ Shaun Jillions
Shaun Jillions
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s/ Abbie Krebsbach
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Submitted electronically via email to CPP.2024@deq.oregon.gov

July 10, 2024

Oregon Department of Environmental Quality
CPP.2024@deq.oregon.gov

Cascade Natural Gas Corporation (“Cascade”) appreciates the opportunity to submit comments following the third Climate Protection Program (CPP) Rulemaking Advisory Committee (RAC) meeting which was held on June 25, 2024

We recognize the significant work and the ambitious timeframe associated with the development of the CPP. The release of the new draft rules just days before RAC 3 made it challenging for Cascade to model the potential cost impacts in advance of the meeting. The short turn-around period for the density of materials provided also made it difficult to assess whether the fiscal impact statement was fully reflective of the on-the-ground realities faced by Oregon’s energy users. The comment period is likewise brief, but Cascade has done its best to review all materials and associated updates to the draft program. Setting aside the foundational legal concerns included in Cascade’s joint comment letter with other natural gas suppliers, in order to help ensure the CPP is as effective as possible if it proceeds, we detail our observations and comments below.

Emissions-Intensive, Trade-Exposed (EITE) Businesses

Cascade commends the DEQ’s effort to regulate EITE industries separately under their own emissions cap. Having a separate cap for EITE industries will allow some of our transport customers to take control of their own emissions reduction efforts. In order to maximize the benefit of this positive program change, Cascade has the following additional recommendations:

The Company maintains the importance of establishing a separate cap decline rate for other cost-sensitive industries that do not fall within the category of an EITE industry, such as hospitals and universities. By the nature of their services, these industries must be located in the state, are necessary for the functioning of society, and are also cost-sensitive.

Additionally, when the public draft of the CPP rule is issued, DEQ must provide a comprehensive list of proposed EITE entities delineated by their serving LDC and FERC pipeline. Having a list from DEQ of all designated EITE entities will ensure that the LDCs are able to delineate which emissions are under their obligation and accurate annual compliance instrument allocations and will aid the LDCs in providing important feedback to DEQ to confirm the EITE emissions breakout from natural gas suppliers.

Cost Impact Analysis

As the design of the CPP moves towards completion, it is critical to recognize that this program may result in both intended and unintended impacts on Oregon's economy and the livelihood of its residents. It is therefore essential that compliance instruments and pathways be modeled from the best available data with sufficient time allocated for review of DEQ's cost impact analysis.

As stated earlier in our comments, the release of new draft rules just days before the RAC 3 meeting made it challenging for utilities to model the potential cost impacts of this version of the rule in advance of the discussion. These cost impacts are crucial to determine, and we intend to follow up with DEQ regarding costs projections to inform the draft fiscal impact statement. This rulemaking is fundamentally different from the previous program and the fiscal analysis should be tailored to the new program and not rely solely on the previous rule's cost analyses.

Cascade is also concerned that small business impact modeling remains insufficient. During the third RAC meeting, DEQ indicated that they did not intend to model the impacts of the CPP on all small businesses, but rather focus solely on cost-impacts to small propane suppliers. While the assessment of impacts to small regulated entities is important, the omission of small businesses who will experience potentially significant impacts to rates as a result of the program is worrisome.

We seek clarification from DEQ as to whether they intend to limit their small business impact analysis solely to regulated fuel suppliers, or if they do intend to look at the broader economic impacts of utility pass-through costs on small business that are not regulated entities. An assessment of pass-through costs is extremely important since it is utility commission practice to allow mandatory compliance costs to be recovered from ratepayers. When the state raises the costs for a utility to serve its customers, customer costs increase.

Regarding contribution percentages over the projected three-year compliance period, Cascade observed that the numbers shared during RAC 3 differed from those provided in advance of the meeting. It will be essential that any discrepancies are clarified prior to final rulemaking so that the RAC is able to assess a full and accurate representation of the program and provide relevant and necessary feedback.

Cost Protections and Compliance Pathways

A well-designed emissions reduction program should strive to balance the needs of both economic and environmental resilience. This means creating a carbon reduction mechanism that does not exacerbate economic hardship by making energy unaffordable for economically burdened Oregonians, nor drive business to other states. The CPP should instead honor the need for a robust and growing economy, while encouraging pathways that optimize affordability and sustainability. It

is therefore important that the CPP factor for both current and projected growth, rather than attempting to halt economic growth based on compliance instruments that assume Oregon's economy will remain in a state of arrested development.

The Company agrees with the need for multiyear compliance periods to help minimize compliance costs, however the program should incorporate economic safeguards and emergency offramps if weather makes a significant impact to gas use in any given year, and the 3rd year of the period especially. Offramps should likewise be considered in the event that compliance obligations exceed certain cost thresholds.

Consumer protection measures such as cost controls and reliability assurance mechanisms are needed to protect Oregon residents and businesses from significantly harmful impacts resulting from a well-intentioned program. Energy is a public good. Given the importance of keeping energy affordable, controlling costs in the utility context is particularly essential. Cost caps are a routinely applied protection embedded in other current carbon regulations in states such as Washington and California. A process for coordinating with the OPUC to enact a reliability assurance mechanism will help ensure that compliance obligations do not jeopardize system reliability.

Community Climate Investment (CCI) Credits

Cascade still has remaining concerns pertaining to the use of CCI credits. Setting the legal issues aside, if the DEQ continues to pursue a CCI Program, Cascade offers the following recommendations that expand upon our prior recommendations offered in previous comments:

Ensure CCI credits reduce emissions.

Cascade maintains that CCI credits must demonstrate emissions reductions and be accounted for transparently. While the ancillary social benefits of CCIs are laudable, the purpose of the CPP is to reduce GHG emissions. Depending on CCIs as a revenue stream for programs that do not result in decarbonization benefits would not only violate DEQ's statutory authority, but also create confusion for regulated entities using CCI credits as a compliance mechanism.

The DEQ should carefully monitor and account for emissions reductions associated with CCIs to ensure that the CPP meets its intended purpose, rather than dilute the effectiveness of carbon reduction benefits by investing in unrelated efforts. In the current rule, there does not appear to be any independent regulatory oversight of nonprofits' use of CCI monies collected from LDC customers for emissions reductions. This approach is inconsistent with other programs operated in Oregon such as those offered through the Energy Trust of Oregon. The Energy Trust utilizes ratepayer funds collected from the LDCs and receives oversight from the OPUC and its LDC funders to ensure energy efficiency targets are achieved. Similar oversight and utility partnership should be considered with

CCIs. Furthermore, social benefit and environmental justice programs should not be dependent upon a revenue stream that, if successful in its purpose, will decrease in overall funding over time due to the steady decarbonization of the regulated sector. The appropriate forum for discussions on the funding of social benefit programs is the legislature, which allocates funding for these types of projects, rather than in regulations deciding air permitting requirements.

Create a separate CCI Program for the natural gas utility sector.

During RAC 3, questions were raised about whether regulated energy companies were well-positioned to deliver CCI programs. As an energy provider regulated by the Oregon Public Utility Commission (Commission), Cascade is tasked with being a steward of both environmental and fiduciary resources. Our utility has both a strong background in the delivery of energy programs, and is held to a system of accountability that ensures our investments in CCI credits would benefit Cascade’s customers, many of whom reside in areas identified economically burdened.

Local distribution companies like Cascade Natural Gas have extensive experience and deep roots in our communities. We believe it’s not only appropriate, but essential, that we be given the tools to bring new carbon reduction programs to communities across our rural, income-constrained service area. Our experience investing in renewable natural gas projects in Washington and Oregon, paired with nearly two decades operating demand side management efforts for our customers in Washington, demonstrate the capability of gas utilities like Cascade to deliver well-operated, and highly accountable programs in the communities we serve.

Cascade therefore proposes that DEQ create a separate CCI Program for the regulated natural gas sector, where credit prices are based upon what it takes to reduce local distribution company (LDC) emissions, and where all funds raised from these credits go towards reducing natural gas customers’ emissions. Examples of potential solutions Cascade is exploring and analyzing in support of decarbonizing natural gas distribution (pending regulatory approval, cost-effectiveness, and overall viability) include:

- Developing low-carbon fuel production,
- Developing thermal energy networks,
- Encouraging the deployment of hybrid heating systems,
- Delivering hydrogen to large customers, and/or
- Developing low-carbon fueling for transportation end uses.

A separate CCI Program for natural gas customers will ensure that customer dollars spent on CCI compliance will go towards benefitting the very customers who are spending these dollars. DEQ would still be able to pursue its equity goals, as it could direct emission reduction resources be focused first on the low-income customers we serve.

Allow covered fuel suppliers to partner with CCI Program entities.

If covered fuel suppliers are not allowed to participate directly as CCI entities, we should at minimum be allowed to work with our communities as partners with the mutual goal of community-based decarbonization.

The CCI program as currently designed creates a missed opportunity to expand pathways for local distribution companies to work together with non-profit and governmental entities towards community-based decarbonization solutions. In fact, under the current design of the CCP, not only would regulated entities like Cascade not be allowed to partner with community based organizations interested in working with us on CCI projects, but we would not even be allowed to allocate CCI funding to a program *requesting* our support. Such funds would instead be aggregated to a single point of distribution and shared equally over all projects independently selected by Seeding Justice, a Portland based non-profit and result in diminished opportunities for rural communities in Central and Eastern Oregon, such as those served by Cascade Natural Gas.

Cascade believes there is current community interest in partnering with LDCs to deliver CCI programs. During the last RAC meeting, Cascade was approached by a representative of one of the Tribal organizations within our service area who appeared interested in potential partnership and engagement with Cascade on CCI efforts within our shared territory. We explained that as the program is currently designed, Cascade would be extremely limited, if not fully prevented, from serving as a partner.

However, we firmly believe that if the intention of the CCI program is to empower local communities to invest in GHG emissions reduction efforts that serve those most impacted by climate change, then entities such as the Tribes should not only be allowed, but *encouraged* to pursue projects and partnerships that serve the needs of their members and community, rather than being dependent upon receiving some proportion of funds from an organization located hundreds of miles away and with little experience or connection to the region requesting support.

Cascade is well positioned to help our community partners lower their GHG emissions and support underserved Oregonians. This commitment is reflected in our long-standing partnership with Washington and Oregon's Community Action Agencies, as well as our collaboration with the Energy Trust of Oregon. It makes no sense to short-circuit emission reduction innovation pathways by not allowing public-private partnerships in this space.

Enact CCI cost controls and ensure availability.

The third RAC meeting included a brief discussion regarding CCI costs and whether they would result in increased expenses for Oregon residents. It was suggested by some stakeholders that rate increases would only be experienced if programs were operated by regulated entities, rather than by non-profits receiving CCI funds. Cascade respectfully disagrees with this position. We reiterate that Cascade as

a highly regulated entity with relationships within the communities we serve, is well-positioned to support CCIs whether as a direct CCI entity, a sub-contractor, or an entity authorized to direct funds to community partners. Furthermore, whether programs are operated by for- or non-profit entities (or some combination thereof), the per-credit CCI cost would still be incurred and passed along to ratepayers. This is because regulated natural gas utilities are allowed and expected to pass-through costs of mandatory programs as part of our rates. Cascade does not earn a profit on these pass-through costs, and takes our role as a fiduciary steward of ratepayer monies seriously. Effective operation and delivery of CCI programs, paired with oversight and quantification of GHG emissions reductions remains essential regardless of the entity delivering CCI services.

While utility rate increases are the product of multiple factors including the cost of natural gas as well as infrastructure and compliance costs, the significant and direct impact of CCIs should not be understated or ignored. It is essential that DEQ ensure the cost set for CCIs is both sufficient to deliver meaningful decarbonization solutions to environmental justice communities, and is neither excessive nor punitive to Oregonian ratepayers who will be shouldering these additional costs at a time of increased housing expenses and continued inflation.

Cascade remains concerned that the basis for current pricing for CCI units remains unclear. As part of its economic impact statement, DEQ should clarify the exact method utilized to develop the number it has chosen for CCI prices. The draft fiscal impact statement does not make DEQ's rationale clear. However, Cascade believes that DEQ may either be utilizing analysis from ICF, or the social cost of carbon to set the price of CCIs. Neither metric is an accurate representation of costs, and should not be utilized for the purpose of the CPP.

Currently, DEQ is proposing to set CCI credit prices at \$129 per credit in 2025. This is a significantly higher price than other instrument-based compliance programs, which may range from less than \$1 to more than \$50 per ton of emissions reduced, depending upon the type of project. DEQ's Draft Fiscal Impact Statement issued in June, 2024, estimated that the costs to reduce emissions from natural gas may range from \$64 to \$188 (2020 dollars) per metric ton of emissions reduced. These estimates were based on the cost of equipment for energy efficiency, and fuel costs associated with the introduction of RNG.¹

If DEQ is basing its CCI costs from ICF estimates to reduce emissions from natural gas projects, Cascade believes this number is inappropriate, unless natural gas utilities are empowered to partner on CCI projects. If DEQ is using the social cost of carbon to set CCI credit prices, this approach also lacks methodological soundness. The cost of reducing emissions is a fundamentally different question than the social cost of emissions. DEQ should look to offset markets to inform how CCI prices are set, since the prices are supposed to be based on what it costs to actually reduce emissions, rather than the social cost of not reducing emissions.

¹ DEQ, Draft Fiscal Impact Statement, 12 (June 2024).

Finally, even if cost mechanisms were improved, CCI projects and their associated credits are currently unavailable, and the timeframe for future availability is unclear. DEQ must make CCI credits available early in the program to enable regulated entities to plan for this cost control option. Under the previous program, no CCI credits were ever made available.

Offset Program

Cascade maintains that a diversified portfolio of compliance options is essential to the success of the CPP. Whether it serves as a supplement or alternative to the CCI Program, the CPP should include an offset program. Offsets present a well-established and cost-effective option to maximizing greenhouse gas emission reductions. DEQ could look to the offset programs that Washington and California have already adopted as an additional compliance pathway.

Having a broad array of compliance options will protect ratepayers by allowing regulated entities to pursue the most cost-effective pathways to decarbonization. Providing CCIs as the sole alternative compliance mechanism available for covered entities therefore not only makes natural gas utilities like Cascade entirely dependent on a resource that may have inconsistent availability, but it also makes compliance more expensive and reduces available opportunities to achieve GHG emissions reductions.

In closing, Cascade again appreciates the opportunity to engage in the RAC and share our comments on RAC 3 topics. We look forward to providing further input to DEQ before finalizing the rule. If you would like to further discuss this letter or have any questions, please reach out to me at (701) 222-7844 or abbie.krebsbach@mdu.com.

Sincerely,



Abbie Krebsbach
Director of Environmental

cc: Chris Robbins – Director, Gas Supply
Chanda Marek – Director, Business Development
Scott Madison – Executive VP, Business Development & Gas Supply
Lori Blattner – Director, Regulatory Affairs
Alyn Spector – Manager, External Affairs

Nicole Singh
Oregon Department of Environmental Quality
CPP.2024@deq.oregon.gov

July 10, 2024

RE: Comments in Response to June 25th CPP 2024 Rulemaking Advisory Committee Meeting

Dear Ms. Singh,

Northwest Natural (“NW Natural”) appreciates the opportunity to provide public comments in response to the third and final Climate Protection Program (“CPP”) 2024 Rulemaking Advisory Committee (“RAC”) meeting.

NW Natural, on behalf of our customers and their use of the product we deliver, is responsible for the largest single compliance obligation under the CPP. As such, we recognize that we will play a key role in implementing climate solutions and we urge DEQ to develop a program that achieves greenhouse gas emission reductions in an equitable, verifiable, and cost-effective manner. While we have concerns about the statutory authority for the program that DEQ is proposing, we do appreciate the efforts that staff have undertaken to integrate some updates to the program design following RAC and stakeholder feedback. In reviewing the materials provided for the June 25th meeting and the discussion at the RAC meeting, we continue to have the following concerns about DEQ’s draft revised rule.

Emissions Intensive Trade Exposed Companies

NW Natural is encouraged to see the inclusion of Emissions Intensive Trade Exposed (EITE) treatment for the state’s largest covered energy users in the draft rule discussed at the June 25th RAC meeting. We believe that if done correctly, EITE treatment could decrease costs for large trade exposed businesses, saving jobs and preventing the loss of manufacturing and other high-quality jobs to other regions. This is a step towards a stronger program that is responsive to business stakeholder priorities. However, we encourage DEQ to consider lowering the threshold for participation in EITE treatment, and to look to the WA and CA cap and trade program pathways to EITE designation as an example of effective policy.

Placing the point of regulation for natural gas combustion on very large users is more appropriate than on local distribution company (LDC). This proposed EITE treatment is certainly a step in the right direction. These businesses know their operations and are best situated to make decisions and changes to maximize emissions savings and minimize costs. For the 10 customers we serve who qualify for the EITE designation, we know this change is meaningful. However, the EITE program currently under consideration does not do anything to reduce the costs to the hundreds of

large users of natural gas, like hospitals, universities, municipal buildings, and smaller manufacturers. As such, we encourage DEQ to prioritize other ways to make the cost of compliance with CPP lower for these other customers who will not benefit from the proposed EITE treatment but who do provide essential services to the communities where they operate.

Costs

NW Natural remains concerned that the cost impact to energy users in the state has not received enough focus during this abbreviated rulemaking process. Based on our modeling of cost impacts from past and current draft rules, we know that the CPP will have significant economic impacts on residential, commercial, and industrial natural gas users. The company is currently working to model cost impacts as accurately as possible using both the most recent draft rule language days in advance of third RAC meeting, updated information provided in that meeting's RAC 3 slides, and additional clarifying information received subsequently from DEQ staff. We will provide updated modeled cost estimates to DEQ once we receive clarification from DEQ staff and complete the work. The 10% cost impact estimate for year one of the program shared by OPUC Staff is consistent with the range of impacts we are seeing in our preliminary models.

Again, we request the inclusion of a cost cap for utility customers in the CPP rules. Parity with the 6% rate impact cap present in Oregon's renewable electricity legislation would help protect Oregon families and businesses from uncontrolled costs associated with CPP compliance. We appreciated the OPUC's presentation included cost caps as a potential policy solution to manage price impacts and hope that DEQ staff and leadership take this program element into consideration.

NW Natural is available to share our cost calculations with additional members of the RAC and the public once we have incorporated the updated draft rule into our analysis. These cost estimates and a revised and robust economic impact statement are critical for all stakeholders to understand the impact that this program will have on all Oregonians.

Economic Impact Assessment

NW Natural was disappointed that the Economic Impact Assessment (EIA) was pushed to the final RAC meeting, with limited time for review and discussion of assumptions and outcomes. This is especially concerning as it appears that the ICF EIA significantly underestimates the costs of CPP implementation in Oregon and erroneously concludes that the CPP will improve Oregon's economic well-being and competitiveness.

The departure from the use of a Computable General Equilibrium (CGE) model is inconsistent with standard practice in economic modeling of policies like this for more than two decades. The use of IMPLAN, an input-output model that quantifies economic impacts that occur due to a change in

demand, was not optimal and may even be misleading. IMPLAN models cannot analyze supply-side changes, nor do they capture price changes and substitution effects between production, consumption, and trade. It's a static model. Capturing price changes is important with an analysis of CPP since it is an indirect tax that substantially raises the price of energy in Oregon over time.

While NW Natural has a number more points of concern regarding the ICF Economic Impact Assessment that we would be happy to discuss with DEQ staff and other stakeholders, its largest shortcoming was the failure to increase prices for energy over time, despite the fact that the OPUC has recognized in testimony that CPP costs of compliance will be passed on to consumers and raise rates. Had ICF used a CGE model, price changes could have been captured and analyzed, which would have revealed larger negative impacts to the state. Finally, the ICF EIA does not include diversity, equity, and inclusion impacts. To ensure equitable outcomes in the rulemaking process, economic impacts by worker characteristics are needed to analyze impacts on communities of color and other historically disadvantaged groups. For a program of the scale and anticipated expense of this size, we recommend revisiting this effort to more accurately and transparently represent the costs to Oregonians.

Community Climate Investments

NW Natural continues to have concerns about the Community Climate Investment ("CCI") program, as proposed by DEQ. As an alternative compliance instrument for meeting the program's emissions goals, these CCI projects must reduce emissions in a verifiable and timely manner. NW Natural is concerned about the program's design, accounting of emissions savings, and delaying of climate action.

As proposed, the CCI program outsources the administration of hundreds of millions of dollars a year to the non-profit CCI entity. These dollars should be used to invest in emission reduction projects in a timely manner. Perhaps most important, the CCI program should be administered by entities with expertise in carbon reduction projects who will be accountable to the state for the management and dispersal of these funds to meet the program goals. These expenses would be borne by NW Natural customers as the company is responsible for securing compliance for customer use of the product we deliver. Strict emissions accounting and verification of emissions savings from CCI projects is imperative to ensure that the emission reductions our customers are paying for are realized.

A carbon regulation program like the proposed CPP should regulate carbon in a measurable and clear way. The currently proposed CCI program does not require the use of any recognized emissions accounting protocol, instead giving discretion to the implementer to assess how savings should be counted and aiming for a 'portfolio level' average of 1MT CO₂e per CCI funded rather than at a project or individual CCI level. As proposed, CCI projects will result in two sets of books for the state's greenhouse gas emissions. One set will be the true greenhouse gas emissions as reported to EPA, while the other set of reports held by DEQ will show lower greenhouse gas emissions based on

unrealized future deemed emission reductions from the CCIs. Unlike carbon offsets, anticipated emission reductions from CCI projects will be counted before they occur. This poses troubling issues with the integrity of the state's emissions inventory and GHG reporting.

Finally, we wish to reiterate our concerns about delayed climate action due to the design of the CCI program. As with the original CPP, DEQ staff has warned that it anticipates significant delay between the start of the program and the availability of CCIs. In the prior program, CCIs were never available for purchase, even two years after the program's inception. If CCIs are used for NW Natural's compliance, any further delay in CCI program development will in turn further delay carbon savings and compress the cost impacts for customers in the first compliance period. To reduce immediate rate impacts to natural gas customers, it is important that the CCI program be established early in the compliance period, or clear timelines for availability need to be provided.

Compliance Instrument Uncertainty

NW Natural continues to have significant reservations regarding the size and liquidity of a possible secondary market for the exchange of compliance instruments. The instruments, distributed by DEQ, are not part of any established marketplace like those in Washington and California's cap and trade markets. As a result, this makes it impossible to reliably model what these instruments may be valued at throughout the program's compliance periods. NW Natural and others would be in a deficit at program start. While some covered entities may have surplus instruments in the first compliance period, the trajectory of the program reduces the available pool of instruments significantly. This paired with the fact that these instruments are bankable increases their value over time to all covered entities. In the prior version of the CPP, very few trades were transacted. Given the similar design in the current draft rule, it is logical to assume the revised program would not create much opportunity for a secondary market.

Thank you for considering our comments and analysis. We look forward to continuing our engagement. If you have any questions, please reach out to me at Mary.Moerlins@nwnatural.com.

Sincerely,


Mary Moerlins

Director of Environmental Policy
& Corporate Responsibility
NW Natural



July 10, 2024

Comments of the Alliance of Western Energy Consumers on the Oregon DEQ’s Draft CPP Rule as Presented at the Third Rulemaking Advisory Committee Meeting on May 25, 2024

The Alliance of Western Energy Consumers (AWEC) represents the interests of approximately forty large industrial consumers of electricity and natural gas in the Pacific Northwest as they relate to energy and energy costs. AWEC’s members include the region’s largest and most innovative employers, providing tens of thousands of high-wage technical and craft jobs.

AWEC is a participant in the Oregon Department of Environmental Quality’s (DEQ) Rulemaking Advisory Committee (RAC) and appreciates this opportunity to further comment on DEQ’s draft Climate Protection Plan (CPP) rule and DEQ’s openness to improvements to the draft CPP Rule to make it viable for Oregon businesses.

Summary

In its April 30, 2024 comment letter and power point presentation, (attached as **Exhibit A** and **Exhibit B**), AWEC provided seven recommendations which, if taken together, could produce a workable CPP Rule. AWEC continues to urge the DEQ to implement all of those recommendations. Essentially, AWEC proposed to accept direct regulation of carbon emissions for its EITE members in exchange for a CPP Rule that is economically viable for EITEs, and for other non-EITE member businesses which are vital to Oregon’s economy. In its draft CPP Rule, presented at the third and final meeting of its RAC on May 25, 2024, DEQ adopted direct regulation of EITEs, and the basic structure of the EITE program recommended by AWEC. However, because DEQ did not adopt the remainder of AWEC’s recommendations, the draft CPP Rule falls far short of economic viability and does not solve the carbon and economic ‘leakage’ problems that virtually all members of the RAC agree need to be addressed. AWEC looks forward to collaborating with DEQ to address shortcomings in the draft CPP Rule before it is released for public comment.

The following comments detail AWEC’s concerns and will be followed in the coming weeks by an economic analysis of the significant cost impacts of the draft CPP Rule.

AWEC’s Recommendations

AWEC Recommendation 1: Create an Alternative Compliance Pathway for EITE Customers with No-Cost Instruments.

AWEC appreciates that DEQ has adopted the basic structural element of this recommendation. However, several detailed and important aspects of this recommendation were not adopted. These include the starting point or “baseline” for emissions reductions for all customers, and the emissions



decline rate for EITEs. AWEC understands that the effective date of the new CPP Rule will be January 1, 2025, and recommends a baseline based on the first compliance period (2025-2027). Without providing any rationale, DEQ proposes 2017-2019 as a baseline, a period that will be more than eight years old when the CPP Rule is implemented. Using such a dated baseline does not account for any market and/or operational changes experienced by EITEs that could significantly increase the risk of leakage, counterproductive to the purpose of recognizing EITEs. AWEC’s objective here is a program where each EITE’s emissions are fully covered by no-cost allowances in the first compliance period, and the draft rule falls well short of that objective. There may be additional ways to accomplish this such as (i) individually tailored baselines, (ii) an ‘exceptions’ process whereby individual EITE’s could apply to DEQ for adjustments if the baseline is no longer appropriate, and (iii) potentially a carbon-intensity approach which if properly structured could also address year-to-year variations in EITE production due to market and other forces, etc.

After the first compliance period DEQ indicates that it “may” move to an intensity-based compliance program for EITEs. But if such a program is not adopted, EITE’s must reduce emissions by 7 percent in the next compliance period, which is not economically viable for AWEC’s members. AWEC recommends that if the intensity-based program is not adopted, that EITE’s continue to receive 100 percent of their compliance instruments until the intensity-based compliance program is adopted. AWEC also continues to recommend an emissions decline rate of 3% per compliance period once the intensity-based program is effective, based on the Washington carbon reduction program which was negotiated with EITE entities.

AWEC Recommendation 2: Invest in Climate Innovation.

AWEC recommends an additional CPP compliance instrument similar to the CCI instruments that would allow Oregon businesses to comply by providing funding for verifiable carbon emissions reductions from their facilities. AWEC urges DEQ to adopt this recommendation, as it is highly likely to achieve carbon emissions reductions that might otherwise go unrealized. Since the goal of the CPP Rule is to reduce greenhouse gas emissions, excluding the ability of businesses to fund investments in their facilities that result in verifiable carbon emission reductions undermines this goal. While AWEC understands that CCI instruments were part of the prior rule, that program has serious shortcomings from a carbon reduction perspective. In contrast, the compliance instruments for businesses recommended by AWEC would require verifiable carbon emissions reductions. Adopting this recommendation is a win for business and and win for the environment.

AWEC Recommendation 3: Allow Carbon Offsets as a Compliance Alternative.

AWEC recommends allowing verifiable carbon offsets as a compliance alternative for up to 20% of covered emissions. Considering that carbon emissions are a global matter, that reductions are equally valuable wherever they occur, and that reductions can often be achieved in other locations at lower cost, offsets are allowed in many other carbon reduction programs. DEQ has not provided any sound logical



rationale for not allowing carbon offsets, but rather seems to be reacting to unfounded objections to offsets from some other stakeholders.

AWEC Recommendation 4: Make EITE’s a Separate Point of Regulation.

DEQ has adopted this recommendation.

AWEC Recommendation 5: Link the Cost of Compliance Instruments to Regional Markets.

AWEC recommends linking the price of CCI instruments to the objectively determined market-based prices of instruments in the CARB/Quebec markets, which reflect the actual cost of achieving carbon emissions reductions. This will help mitigate CCP program costs, help prevent ‘leakage’, and position Oregon for future integration with other markets as is presently being done in Washington. Disturbingly, it was revealed at the third RAC meeting that there is no analysis underlying DEQ’s proposed CCI pricing, which is by far the most expensive compliance instrument in the region. Rather it is an estimate of the per-ton cost of carbon reduction programs within the DEI communities that DEQ is seeking to address. This, coupled with DEQ’s refusal to require that all CCI funded programs need to achieve a \$/ton cost target, confirms that CCI’s are not a least cost mechanism to reduce emissions but rather appear to be part of an effort to gain public support by transferring value to certain communities for activities potentially unrelated to carbon reduction.

The CCI price proposed by DEQ is outrageous, unfounded, and unnecessary to achieve the goals of the CCP program. It is also punitive for the customers that will pay for these compliance instruments. AWEC urges DEQ to review and consider the cost impacts on Oregonians from the inflated CCI prices. Simply linking the price of CCIs to the market-based prices of instruments in the CARB/Quebec markets will put Oregon’s residential, commercial and industrial consumers on equal footing with other customers in the region. Failure to do so will harm Oregonians, harm the competitiveness of business, foster “leakage”, and having the most expensive carbon program will not have a material impact on Oregon’s greenhouse gas emission reduction goals.

AWEC Recommendation 6: Establish an Annual Cost Cap for Non-EITE Customers.

AWEC recommends that the CCP program include a cost cap such that the annual rate increase impact not exceed 5%. This is similar to the cost cap included in Oregon HB 2021 for the electricity sector. At the third RAC meeting, a representative of the Public Utility Commission of Oregon (PUC) delivered a presentation outlining how the costs of the CPP program would be included in natural gas rates. Notably, toward the end of that presentation there was a list of the very limited mechanisms that the PUC has available to limit rate impacts. The most effective and impactful of those is the cost cap mechanism described above. AWEC recommends that DEQ accept the very clear ‘hint’ delivered in the PUC presentation and include a cost cap in the CPP rule. The cost cap would protect customers from



unreasonable and unintended compliance costs for an essential service that will continue to play a crucial role in the energy system in the Pacific Northwest for decades to come.

AWEC Recommendation 7: Program Caps and Instrument Distribution to be Reevaluated.

In connection with its Recommendation 1, AWEC recommends that DEQ update the volume of compliance instruments being distributed based on more recent natural gas loads and carbon emissions data.

Additional Comments

CCI Monitoring and Verification. The draft CCP Rule devotes scant attention to ensuring that the CCI instruments result in reductions in carbon emissions. AWEC’s members, who will be bearing the costs of a significant portion of CCI purchases, believe that monitoring and verification should be a key part of the program. To ensure public confidence, DEQ should consider utilizing a third party GHG registry or other entity to monitor the CCI program to ensure that its carbon reduction integrity is maintained.

Flexibility. The Rule should include provisions addressing new EITE businesses that come to Oregon, expansion of existing EITE facilities, and variation from year-to-year production by EITEs due to market and other forces.

Higher CCI Utilization. There was brief discussion at the second RAC meeting about allowing a higher percentage utilization of CCI for compliance in the new CPP program. AWEC strongly supports this concept.

Sincerely,

A handwritten signature in blue ink that reads 'W. A. Gaines'.

William A. Gaines
Executive Director, AWEC

Attachments: Exhibit A AWEC April 30, 2024 Comment Letter
 Exhibit B AWEC April 30, 2024 PowerPoint Presentation



AWEC

Alliance of Western Energy Consumers ♦ 3519 NE 15th Ave, #249 ♦ Portland, OR 97212 ♦ AWEC.solutions

Exhibit A

AWEC April 30, 2024 Comment Letter



April 30, 2024

Supplemental Comments of the Alliance of Western Energy Consumers on the Oregon Department of Environmental Quality’s Climate Protection Program 2024 Rulemaking

Alliance of Western Energy Consumers (“AWEC”)¹ appreciates this opportunity to provide supplemental comments on the Climate Protection Program (“CPP”) 2024 rulemaking of the Oregon Department of Environmental Quality’s (“DEQ”). AWEC appreciates the opportunity to participate in this rulemaking process and to discuss proposed improvements to the CPP, with the objective of enhancing the effectiveness of the rule in reducing carbon emissions while maintaining the competitiveness of Oregon business.

AWEC is a participant in the Rulemaking Advisory Committee (“RAC”) and participated in the DEQ’s April 2, 2024 RAC Meeting. In general, AWEC is supportive of the DEQ’s workplan to implement new CPP 2024 rules, as well as its openness to improvements to the rules to make them viable for Oregon business.

Attached to these comments as **Exhibit A** is a power point presentation containing several concepts for consideration for a new climate program. These concepts are intended to:

1. Recognize the unique characteristics of Energy Intensive Trade Exposed (“EITE”) Industries²;
2. Create a separate compliance pathway for EITE customers;
3. Regulate large emitters directly and require emissions reductions;
4. Incentivize greenhouse gas reductions and innovation;
5. Avoid economic and emissions leakage; and
6. Avoid unnecessary cost shifting to Oregon families through higher natural gas and transportation fuel prices.

AWEC believes it is possible to achieve Oregon’s climate policy objectives while also fostering a robust economy and making Oregon an attractive place to conduct business. Accordingly, AWEC’s proposals are intended to make compliance with the rule more feasible for Oregon businesses while competing in global markets.

AWEC Recommendation 1: Create an Alternative Compliance Pathway for EITE Customers with No-Cost Instruments

AWEC’s primary recommendation is to create an alternative compliance pathway for EITE customers with no-cost instruments. Nearly every carbon market in the world has some form of EITE program.³ The proposed CPP rule, in contrast, does not. AWEC views this as an essential part of an effective climate policy.

¹ AWEC represents large energy consumers in the Pacific Northwest, including natural gas sales and transportation customers served by the three local distribution companies (“LDCs”) in the state—NW Natural, Avista and Cascade.

² An EITE Entity would be defined in the rule as a distribution service customer of a local distribution company that operates a trade or business in the state under the North American Industry Classification System (NAICS) codes, along with a new section with the specific NAICS references.

³ See for example the joint California/Québec market; the Washington State Climate Commitment Act market; the Northeast, Regional Greenhouse Gas Initiative (“RGGI”) market; the EU Emission Trading System; The UK Emission Trading System; the Korea Emission Trading Scheme, among others, contain design elements to accommodate the unique carbon impacts and situation of EITE entities.

The purpose of an EITE program is simple. It is to address the widely accepted problem of carbon leakage. Most EITE businesses require natural gas in their operations, and currently no viable alternative source of energy exists. Adopting rules that will otherwise dramatically increase the cost of energy for EITE entities will harm their competitiveness in global markets and diminish their ability to make sales at economically viable prices. This in turn reduces output from entities in the State leading to a shift in production and energy consumption to regions with higher carbon footprints. Thus, imposing aggressive carbon costs on such entities can result in the counterproductive effect of increasing overall global carbon emissions. It also has negative impacts on the state economy, diminishing both employment and tax base. Simply stated, a greenhouse gas policy that functions by forcing EITE businesses out of the state is not viable; is bad for the Oregon economy; and will not produce positive impacts for the environment.

Prior to its invalidation, natural gas distribution service ratepayers had only experienced relatively minor cost increases associated with the former CPP rule. At the time, the local distribution companies had yet to purchase any CCI credits, which constituted the majority, if not all, of the compliance obligations for local distribution companies for the first CPP compliance period. The rate increases that were being forecast from required compliance in the first compliance period were staggering. On July 31, 2023, in the Public Utility Commission of Oregon Docket No. UG 485, NW Natural had proposed upwards of a 64% rate increase to large volume customers to address the cost of purchasing CCIs in the amount of \$43,243,609 for the second year of CPP compliance.¹ That request was later delayed due to the timing of the CCI entity certification and later withdrawn following the invalidation of the CPP rules. It was also just a preliminary glimpse into the full magnitude of the costs at issue. *AWEC's own estimates were that the CPP was going to result in distribution service rate increases that ranged from 435% in 2025 to 1,819% in 2035 (and as high as 6,700% increases for some customers).* This level of rate increase would have severely impacted the ability of trade exposed entities to conduct business in Oregon.

Implementing a greenhouse gas policy while considering the unique characteristic of EITE businesses are not mutually exclusive. The carbon programs of Washington and California, for example, provide special treatment to EITE businesses to offset the negative economic impacts of the program on their states and to prevent against carbon leakage. Therefore, adopting similar complementary programs in Oregon is vital to ensure that business does not move out of the state and out of the region. To do this, AWEC recommends that the DEQ adopt an EITE program that is generally based on the EITE programs in Washington and California.

The foundation of AWEC's alternative pathway concept is for DEQ to create a new distinct schedule of no-cost instruments for EITE customers following a similar trajectory as the Washington Climate Commitment Act ("CCA"). See **Exhibit A** p. 5-6. AWEC recommends that the cap for EITE customers be established in a manner consistent with the Washington CCA, which allowed for 3% reductions per compliance period, beginning in the second compliance period. A summary of AWEC's alternative compliance concept includes:

- Creating a new Table 4B distributing no-cost instruments to EITE Entities based on a stated percentages per compliance period (proposed Table 4B is shown in **Exhibit A p. 6**)
 - This is similar to Washington's EITE program with 3% reductions per compliance period. (*A 4-year compliance program like Washington would also be acceptable*).
- First compliance period used to measure EITE emissions and establish baseline.
 - Establish an EITE Baseline based on the highest two years of emissions in the first compliance period, normalizing the impact of abnormal plant outages or curtailment periods.
 - Establish new customer and facility expansion baselines on the highest two years of emissions in the first three years of operations.
 - Provide an opportunity to appeal to DEQ if EITE Baseline produced by the formula is unreasonable relative to the facility's full production capability.



- No-cost instruments allocated to cover 100 percent of EITE emissions at the end of first compliance period. No-cost allowances allocated to cover 97 percent of emissions at the end of the second compliance period, and reduced by 3% in each of compliance periods three and four.
- Following the fourth compliance period, the EITE program would undergo a holistic review and percentage reductions are subject to review and discussion.

Notably, AWEC recommends a distinct schedule of no cost instruments for EITE customers, separate from the Table 2 allowances available for other covered entities. Maintaining a distinct schedule is vital due to the characteristics of EITE entities, as capping their emissions under Table 2 may not effectively reduce emissions, but over time, will shift emissions to jurisdictions with more relaxed environmental regulations. Conversely, applying an EITE program with a slower trajectory alongside existing caps would be unfair to non-EITE customers, requiring them to reduce emissions at an even faster rate to compensate for the unique leakage and economic issues associated with EITE emissions.

AWEC acknowledges that its proposed program will result in a modest increase to the overall programmatic caps established in the CPP. It will still be necessary to adjust Table 2 and Table 4 to deduct EITE emissions from the state and LDC baselines. EITE emissions will be capped and will be subject to a schedule of reductions. Accordingly, the net effect of AWEC's proposal on the overall state targets will be relatively modest. Considering the massive benefits of retaining EITE businesses in the state, while aggressively promoting climate innovation for these customers, AWEC believes this change is justified and will produce an overwhelmingly more positive effect on carbon emissions.

AWEC Recommendation 2: Invest in Climate Innovation

Another element of AWEC's proposal, which would apply generically, and not just to EITE entities, is the establishment of a new compliance instrument that is designated specifically to fund climate innovation for Oregon business. While AWEC appreciates the structure of the CCI program in the context of service provided to residential and small commercial customers, greater emphasis on technological and business innovation will be necessary if Oregon is going to be able to meet its GHG reduction targets. Oregon is poised to be a leader in climate innovation. If a business-oriented funding program is available in Oregon's climate program, technologically focussed climate solutions may be pursued more rapidly.

AWEC proposes a new type of compliance instrument called an Innovation Climate Investment ("ICI") credit. These instruments would be funded in a manner similar to the CCI program, with funds distributed to ICI entities. These entities would be non-profits focused on funding greenhouse gas reducing innovation for Oregon businesses. These entities would undergo an application and approval process in the same manner as CCI entities, and be required to be accountable for carbon reductions achieved through their activities.

Under AWEC's proposal, the use of ICI credits as compliance instruments would be limited to carbon emissions attributable to EITE customers and large volume customers of a local distribution company (e.g. NW Natural Schedule 32), with no cap.

A wide range of possible funding activities would be made available through the ICI program, ranging from simple solutions, such as fugitive emission audits, to more complicated infrastructure investments in developing on-site carbon capture equipment.

AWEC Recommendation 3: Allow Carbon Offsets as a Compliance Alternative

Given the limited compliance alternatives available for the CPP, and the lack of a tradable market for instruments, AWEC believes that some level of carbon offsets should be allowed as a compliance instrument in the CPP. Based on existing technology, the local distribution companies realistically have only three available compliance alternatives under the proposed rule: (a) CCIs; (b) Renewable Natural Gas; and (c) Conservation. The CPP should be designed in a way that makes it possible to comply and at a reasonable cost. Accordingly, AWEC recommends that the program be improved to allow for the use of offsets for up to 20% of covered emissions. Many programs in other states allow for the use of offsets to meet compliance obligations, and absent a liquid tradable market for CPP compliance instruments, AWEC believes that the ability to use offsets would be a major improvement to the program.

AWEC Recommendation 4: Make EITE Entities a Separate Point of Regulation

AWEC recommends that the DEQ establish EITE customers as a separate point of regulation. Establishing EITE entities as a separate point of regulation from the local distribution companies is appropriate because individual EITE Entities will have greater incentive to innovate and reduce carbon emissions if directly responsible for CPP costs of their facilities.

AWEC Recommendation 5: Link the Cost of Compliance Instruments to Regional Markets

Another important element of AWEC's proposal is to tie the cost of compliance instruments—both CCIs and ICIs—to the cost of allowances in regional carbon markets. Absent having a separate tradable market for compliance instruments in Oregon, AWEC recommends that the cost be tied to the CARB/Québec market clearing prices. This will result in making Oregon business subject to the same level of costs as other states, keeping their competitiveness on par with industry in those other states. This will also potentially make it easier to integrate Oregon with a wider market footprint in the future as Oregon's state policy evolves.

AWEC Recommendation 6: Establish an Annual Cost Cap for Non EITE Customers

It is impossible to evaluate the cost effectiveness of the CPP, absent a clear understanding of the cost. Accordingly, AWEC recommends that a programmatic cost cap be established that will limit the annual rate impacts to distribution service customer rates to no more than 5% per year. Under the prior CPP rule, ratepayers were expecting to receive major rate increases, and while the rule had a requirement in OAR 340-271-8100 that it would undergo re-evaluation if the rate impacts were greater than in other states, that requirement lacked any material affect.

AWEC recommends that a programmatic cost cap be established, where the rate impacts of the CPP are reviewed on an annual basis, with the ability to petition the DEQ for new instruments, outside of the statewide caps, if costs exceed the specified rate cap. This will provide ratepayers with assurance that the CPP objectives can be met without negatively impacting utility rates.

AWEC Recommendation 7: Program Caps and Instrument Distribution Be Reevaluated

Finally, and not discussed in the attachment, AWEC also recommends that a new rule update the volume of compliance instruments being distributed based on more recent natural gas loads and carbon emissions data. First, under AWEC's proposal EITE customers have their own compliance pathway and should not be subject to the Table 2 program caps, requiring the existing caps to be reduced for the EITE emissions. Second, considering the growth in natural gas demands that have occurred since the original CPP rules were enacted, maintaining the same targets as the prior rule will make compliance, particularly in the first compliance period, challenging. Accordingly, in



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addition to the recommendations in the attachment, AWEC recommends that the volume of distributed compliance instruments be refreshed, with perhaps a slightly more rapid trajectory of carbon emissions reductions through 2050.

AWEC appreciates this opportunity to provide these comments and the attached proposal. We look forward to future participation and discussion in the CPP 2024 rulemaking process.

Sincerely

William (Bill) A. Gaines
Executive Director, AWEC



AWEC

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Exhibit B

AWEC April 30, 2024 PowerPoint Presentation

Oregon Climate Protection Program (“CPP”) Proposal
prepared by
Alliance of Western Energy Consumers

Alternative Compliance Pathway for
Energy Intensive Trade Exposed Industries

April 30, 2024



CCP Program Proposals--EITE

- 1. EITE No-Cost Compliance Instruments:** Create a separate schedule of new no-cost compliance instruments distributed to EITE Entities with 3% reductions per compliance period (similar to Washington's EITE program)
- 2. Innovation Climate Investments ("ICI"):** Create new class of compliance instruments with funding directed towards climate innovation for Oregon business applicable to EITEs and large volume distribution service rate schedules
- 3. Carbon Offsets:** Enable LDCs and EITEs to use of carbon offsets, including nature based offsets, to meet up to 20% of Covered Emissions (*This would apply to EITE and Non EITE customers*)
- 4. EITE Point of Regulation:** Make EITE Entities a separate point of regulation from the Local Distribution Company ("LDC")
- 5. Tie to Regional Markets:** Tie the cost of CCI's and ICIs to the settled CARB/QBC allowance auction market price (*This would apply to EITE and Non EITE customers*)

CPP Program Proposal—Non EITE Customers

- 6. Cost Cap:** Establish a programmatic cost cap equal to 5% per year for LDC distribution service customers (for non EITE customers)

EITE Program Justification

- Nearly every carbon market in the world has some form of Energy-Intensive Trade-Exposed (“EITE”) program
- EITE consumers have unique impact on economic and industrial development in the state, warranting unique CPP treatment: competitiveness, carbon leakage, neighboring EITE programs, etc.
- Increasing EITE costs will risk relocation of production outside of Oregon leading to a shift of energy consumption and production to regions with higher carbon footprints
- The impact of the former CPP rule on EITE customers was forecast to be severe: rate increases ranged from 435% in 2025 to 1,819% in 2035 (6,700% increases for some customers)
- The *Oregon Sectoral Competitiveness under Carbon Pricing* study prepared for the Oregon Carbon Policy Office in 2018 recommended the inclusion of an EITE program to avoid leakage and related issues
- Accordingly, there is sound justification to adopt an alternative compliance pathway for EITE customers, thereby protecting the economic and industrial development in the state

1. EITE No-Cost Compliance Instruments

- New paragraph in § 340-271-0420:
 - (3) Annual distribution of compliance instruments to covered fuel suppliers that are EITE Entities. DEQ will annually distribute to each EITE Entity, or to its successor(s) due to a change in ownership or operation, the number of compliance instruments equal to the EITE Baseline multiplied by the percentages stated in Table 4B in OAR 340-271-9000.
 - (a) For EITE Entities existing as of the effective date of this rule the EITE Baseline shall be based on the average Covered Emissions from the EITE Entity in the two years with the highest Covered Emissions in the first compliance period.
 - (b) For new EITE Entities, including expansions of existing facilities, the EITE Baseline shall be based on the average Covered Emissions from the EITE Entity in the two years with the highest Covered Emissions in the first three years of the EITE Entity operations at full production.
 - (c) The EITE Baseline for an EITE Entity shall be adjusted based on a showing from the EITE Entity that the EITE Baseline calculated based on the foregoing formula does not accurately reflect the EITE Entity's full production capability.
- Create a new Table 4B distributing no-cost instruments to EITE Entities based on a stated percentages per compliance period (proposed Table 4B is shown on next slide)
- EITE Baseline based on the highest two years of emissions in the first compliance period, normalizing the impact of abnormal plant outages or curtailment periods
- New customers and facility expansion baselines would be based on the highest two years of emissions in the first three years of operations
- Opportunity to appeal to DEQ if EITE Baseline produced by the formula is unreasonable relative to the facility's full production capability

No-Cost Compliance Instruments (Cont.)

- Proposed New Table 4B (to the right)
- Similar to Washington EITE program with 3% reductions per compliance period. (A 4-year compliance program like Washington would also be acceptable).
- First compliance period used to measure EITE emissions and establish baseline as discussed on previous page
- Following fourth compliance period, EITE program undergoes holistic review and percentage reductions are subject to review and discussion.

Table 4B		
Allocation of Compliance Instruments to EITE Entities		
Compl. Per.	Year	% of EITE Baseline
1	2025	100.0%
1	2026	100.0%
1	2027	100.0%
2	2028	97.0%
2	2029	97.0%
2	2030	97.0%
3	2031	94.1%
3	2032	94.1%
3	2033	94.1%
4	2034	91.3%
4	2035	91.3%
4	2036	91.3%
Thereafter		Subject to Future Rulemaking

-Baseline Measurement
3% Reductions Per C.P.
Program Reevaluated

2. Innovation Climate Investments

- Create a new class of compliance credits e.g.:
 - (xx) “Innovation Climate Investment credit” or “ICI credit” means an instrument issued by DEQ to track a covered fuel supplier’s payment of innovation climate investment funds, and which may be used in lieu of a compliance instrument, as further provided and limited in this division.
Further conforming changes would be required throughout CPP specifying specific funding rules and requirements for ICI entities
- Add ICIs as a compliance pathway § 340-271-0450(3):
 - (3) To demonstrate compliance for a compliance period, a covered fuel supplier must submit the following to DEQ:
 - (a) For each metric ton of CO₂e of the total compliance obligation, either a compliance instrument, ~~or~~ a CCI credit, a Carbon Offset, or an ICI Credit subject to the following limitations:
 - ...
 - (D) The quantity of ICI Credits shall be limited to the Covered Emissions of EITE Entities and the Covered Emissions of a local distribution company attributable to a large volume rate schedule.
- ICI program specifically designed to advance the environmental sustainability and competitiveness of Oregon business
- Qualified organizations funded to invest in innovation, sustainability and carbon reduction for Oregon business
- Rules regarding certification and qualification as an ICI entity similar to those for CCIs, subject to further discussion

3. Carbon Offsets

- Add Carbon Offsets to § 340-271-0450(3):
 - (3) To demonstrate compliance for a compliance period, a covered fuel supplier must submit the following to DEQ:
 - (a) For each metric ton of CO₂e of the total compliance obligation, either a compliance instrument, ~~or~~ a CCI credit, **or a Carbon Offset** subject to the following limitations:
 - ...
 - (C) **The quantity of Carbon Offsets shall be limited to 20% of the Covered Emissions of Local Distribution Companies or EITE Entities.**
- *...Define Carbon Offset*↓
 - 340-271-0020 (xx) Carbon Offsets means instruments tradable through the American Carbon Registry or nature-based global emissions including instruments tradable through the Chicago Mercantile Exchange CBL Nature-Based Global Emissions Offset futures contract.
- Provides more flexibility in meeting the compliance obligations, while still providing for verifiable emissions reductions
- A global emissions offset is consistent with the leakage caused by imposing carbon costs on EITE customers
- Programs in Washington, California and Quebec provide for the use of offsets, with limitations

4. EITE Point of Regulation

- Define EITE Entity:
 - (xx) “EITE Entity” means a distribution service customer of a local distribution company that operates a trade or business in the state under the North American Industry Classification System (NAICS) codes specified in OAR 340-271-9001 [*add a new section with the specific NAICS references*]
- Establish point of regulation § 340-271-0110(4):
 - (a) The person is (i) a local distribution company that either produces natural gas, compressed natural gas, or liquefied natural gas in Oregon, or that imports, sells, or distributes natural gas, compressed natural gas, or liquefied natural gas to end users in the state, or (ii) an EITE Entity that self-supplies or procures natural gas through the distribution network of a local distribution company in the state.

Further conforming edits throughout the rule adding EITE Entity where applicable.

- Individual EITE Entities will have greater incentive to innovate and reduce carbon emissions if directly responsible for CPP costs of their facilities
- If costs are socialized at LDC, EITE entities will not realize direct benefits from their individual carbon reductions, thus providing less incentive for action

5. Tie CCI and ICI to Regional Markets

- Tie costs of CCIs and ICIs to the the most recently settled CARB/QBC allowance market price.
- Strike the second and third sentence of 340-271-0820(3)(b) and add a new paragraph:
 - (6) The CCI credit contribution amount and the ICI credit contribution amount shall be the settlement price for greenhouse gas allowances in the most recent Joint Auction of California Air Resources Board (CARB) and Québec's ministère del'Environnement.
- Tying the compliance cost to the CARB market will result in a similar compliance cost in Oregon as neighboring states, thus preventing leakage and promoting Oregon business
- Will promote future efforts to regionalize carbon markets

6. Cost Cap for Non-EITE Customers

- Establish a mechanism, with feedback from the LDCs and the Public Utility Commission of Oregon, that limits the effective rate increases of the CPP for customers to 5%
 - Modify § 340-271-0420(2):
 - (2) Annual distribution of compliance instruments to covered fuel suppliers that are local distribution companies.
 - (a) DEQ will annually distribute to each local distribution company, or to its successor(s) due to a change in ownership or operation, the number of compliance instruments from the calendar year's cap stated in Table 4 in OAR 340-271-9000; and
 - (b) If to the extent the average annual rate increase associated with CPP compliance for any distribution service rate schedule of a local distribution company exceeds 5%, the DEQ will distribute an additional number of compliance instruments to the local distribution company for the Covered Emissions of the applicable rate schedule in an amount sufficient to reduce the annual distribution service rate increase associated with CPP compliance to 5%, as determined in the CPP Rate Impact Report filed by the local distribution company with, and acknowledged by, the Public Utility Commission of Oregon.
- ...Define EITE Impact Report ↓
- 340-271-0020 (xx) CPP Rate Impact Report means an annual report filed by a local distribution company, with the Public Utility Commission of Oregon on November 1 of each calendar year detailing the additional compliance instruments, if any, necessary to reduce the annual distribution service rate increase for CPP compliance for each local distribution rate schedule to 5%.
- Requires LDCs to track and report rate impacts associated with CPP compliance for customers
 - Propose an annual report prepared by LDCs in conjunction with Purchased Gas Adjustment filings



July 10, 2024

Nicole Singh
Department of Environmental Quality
700 NE Multnomah Street
Suite 600
Portland OR 97232

Dear Ms. Singh:

Please accept Oregon Business & Industry's comments on the Department of Environmental Quality's (DEQ) Climate Protection Program (CPP) Rulemaking Advisory Committee (RAC) meeting 3 held on June 25, 2024. Oregon Business & Industry (OBI) is a statewide association representing businesses from a wide variety of industries and from each of Oregon's 36 counties. Our 1,600 member companies, more than 80% of which are small businesses, employ more than 250,000 Oregonians. Oregon's private sector businesses help drive a healthy, prosperous economy for the benefit of everyone.

OBI agrees that Oregon must do its part in reducing net global GHG emissions. However, a climate program that fails to address carbon leakage will not accomplish this end. In fact, such a program could well increase net carbon emissions. An Oregon-centric policy approach may work for protecting air, water and land quality but it does not work for reducing GHG emissions.

DEQ's current draft rule includes notable changes in the structure of the program with the *potential* to make the CPP a more workable climate policy. As you know, a regulatory program of this size and scope contains dozens of "policy levers" that together determine the feasibility, cost and effectiveness of rule implementation. In our analysis, unfortunately, the costs of complying with the draft rule do not differ materially from the costs of complying with the original rule. This is despite the inclusion of several well-intended adjustments. We appreciate DEQ's efforts to include key features from other climate programs like treatment for emissions/energy intensive trade exposed businesses (EITEs), but the latest modifications do not adequately address our grave concerns regarding compliance costs.

We urge DEQ to address the following issues in the proposed rule.

The Risk of Leakage Remains High for EITEs

OBI was pleased to see the inclusion of EITE businesses in the draft rule. The draft does not adequately address the very real risk of leakage, however. Thanks to several components, the program will push emissions out of state for manufacturers unable to reduce emissions. These components include the limited application of EITE treatment, extremely high price of Community Climate Investment Credits (CCICs), requirement for utilizing CCICs in the same compliance period in which they are purchased, establishment of a baseline that, in many cases, is lower than current emissions due to increased

production that have occurred since the 2017-2019 timeline, and lack of a carbon intensity-based benchmark rather than a mass-based emissions.

A regulatory program that results in carbon leakage will also produce economic leakage. Climate policy that incentivizes businesses to curtail production, shut down, leave Oregon or shift production outside the state will not support solutions to our state's myriad challenges, including school performance, homelessness, and Oregon's addiction and mental health crises. Businesses must remain in Oregon for them provide the high-wage jobs and tax revenue that support thriving communities.

The 7% cap decline beginning in the second compliance period, which continues to drop by 7% in each subsequent compliance period, strikes us as too precipitous. However, what is more worrying is the cap declines irrespective of whether facilities have any means of reducing emissions at this ambitious clip. We urge DEQ to include a provision that EITEs may demonstrate that further emission reduction is not technically or economically possible at which point further emission reductions would not be required for the remainder of that compliance period.

EITEs with Lower Emissions Should be Eligible to Opt Into EITE Treatment

DEQ has limited the number of entities eligible for EITE treatment to those emitting more than 25,000 MT CO₂e. OBI urges DEQ to allow EITE businesses that do not reach the threshold to opt into EITE treatment. Many businesses beyond the 20 currently eligible for EITE treatment are trade exposed and vulnerable to both carbon leakage and economic leakage. Drawing a line at 25,000 tons of emissions picks winners and losers in Oregon's economy. Whether a facility is north or south of 25,000 MT CO₂e, all EITEs are vulnerable and should be offered the opportunity to compete with out-of-state manufacturers on a more level playing field. Additionally, the EITE threshold could incentivize increasing emissions, which is obviously not the desired outcome.

A Cost Cap Should Be Included for Non-EITE Customers

OBI urges DEQ to establish an annual cost cap for energy consumers not covered by EITE treatment of 5%. Energy customers should not be exposed to steep and sudden rate shocks, and we believe the best way to protect non-EITE customers is to cap cost increases at 5% per compliance period. Without new economic data, we fear that DEQ does not have a firm grasp on the scale of price increases or their impact on Oregon businesses.

The Manufacturing Sector Cannot Grow in the Absence of Alternative Clean Technologies

DEQ made clear in RAC meeting 3 that natural gas-reliant manufacturing businesses would not be allowed to grow under the language in the draft rule. This is not a desirable outcome for most Oregonians and state policymakers. A proposal that prevents manufacturing growth is likely to result in economic stagnation and flies in the face of recent public policy (SB 4) incentivizing growth in the semiconductor manufacturing sector. The objective of the Oregon CHIPS Act is to accelerate our state's prominence in semiconductor manufacturing, yet the CPP would render the \$200 million in incentives moot since there are no mechanisms in the draft to address increased production. Emissions from existing businesses must decline at a specified rate, and options are extremely limited for new market entrants in Oregon.

Calculating the Baseline and Carbon Intensity Benchmarking

OBI encourages DEQ to use a two-year average (either consecutive or non-consecutive) of emissions between 2017 and 2023. We believe this is a reasonable approach that would accommodate market fluctuations pre- and post-pandemic as well as market growth. Our basic concern is that some facilities have increased production beyond their 2017-2019 average, which would immediately put these facilities in a credit deficit and force the immediate purchase of additional compliance instruments (CI) from another regulated entity even before the cap declined in the second compliance period. We believe it's highly unlikely that CIs would be available for purchase since they have no expiration and, therefore, regulated entities would almost certainly hold these to meet future compliance obligations. Since offsets are not allowed under the current draft, the only other option would be to purchase high-cost CCICs.

Although the baseline and cap in the draft utilize a mass-based GHG calculation, DEQ floated the idea of promulgating a future rule employing a baseline emissions intensity value for EITEs. OBI sees this as a potentially constructive approach for demonstrating lower carbon emissions. However, absent assurances that DEQ will adopt a workable carbon intensity approach, there is simply too much uncertainty about future compliance costs.

Our solution would be to offer EITEs 100% of a mass baseline annually determined by the highest two-year average until DEQ promulgates a baseline emissions intensity value for EITEs. This would provide DEQ time to promulgate a workable rule while minimizing risk to manufacturers.

In the event that DEQ does adopt a carbon intensity approach, we urge DEQ to give regulated entities the option of using a mass baseline and cap reduction approach. There is tremendous variation in the products, materials, size and business models of our members, and utilizing an emissions intensity value may work for one company and not another. Businesses should have this option.

The Lack of New Economic Analyses Remains a Major Concern

DEQ's failure to credibly evaluate the fiscal impacts of the rule and establish cost containment mechanisms has been the most disappointing aspect of this rulemaking process. DEQ dismissed repeated requests to update its economic analysis from 2021 to reflect myriad policy modifications in this rulemaking, and the agency has stated its intent to limit public notice and comment on the rule package to 30 days (depriving others ample time to engage an economic consultant to carry out the task). Meanwhile, many cost explanations, such as the basis for establishing the CCIC price, were extremely vague and without clear justification. OBI made four requests of DEQ (one at each RAC meeting and one in previous written comments) for a documented explanation or worksheet showing how the cost of a CCIC was calculated. We never received such documentation and we are deeply concerned that DEQ either chose to ignore this reasonable request or that this documentation does not exist.

Several OBI members have tried to calculate their CPP compliance costs with the limited data DEQ has provided. The general consensus is that, while the policy choices have been modified, the net costs are

similar to the original program adopted in 2021. The point of EITE treatment was to reduce the risk of economic leakage by better controlling compliance costs. The draft does not achieve that objective.

Additionally, while DEQ has expressed skepticism of some cost estimates generated by the private sector, these entities have been open and transparent about their math. It is distressing that DEQ has not been equally transparent about its calculations. We urge the agency to share its calculations so that the agency, regulated entities and the public are able to understand the full fiscal impacts of the rule.

There is no question that all Oregonians will experience impacts from this rule. DEQ has an obligation to make these impacts clear to businesses and consumers. Unfortunately, without updated economic modeling data, we do not believe DEQ has done or is able to execute a credible fiscal impact statement clearly showing how our state will be affected. Nor will the Public Utilities Commission be able to carry out its economic obligation to ratepayers. Moving forward with the rule without this data means that there will be entirely inadequate discussion and no opportunity to mitigate these economic impacts until it is too late.

Community Climate Investment Credits

OBI remains extremely concerned about the Community Climate Investment program as it is currently structured and priced. While it is difficult to predict the precise amount of revenue that will be generated by the purchase of CCICs, the program could plausibly generate more than \$2 billion over the life of the CPP. Such an enormous transfer of money in the absence of any legislative oversight is unprecedented. CCIC prices should be reduced to a far more reasonable level (e.g., the \$4.27 per ton of CO₂ emissions offset cost established in OAR 345-024-0580 for energy facilities) unless and until there is clear legislative authority and oversight of this multibillion-dollar mechanism.

Regulated entities must have all compliance options available to them, which means that *CCICs must be available for purchase on day one of the new program*. Without *all* compliance options available from the onset of the program, regulated entities will face many challenges, including planning for decarbonization projects and providing clear information with respect to the size and frequency of rate increases for energy customers. There is no reason not to allow qualified organizations to accept money, thereby enabling the issuance of CCICs in advance of projects being identified and approved, just as the Department of Energy has done for decades in implementing the monetary offset rate for energy facilities. Absent such an approach, covered sources may not be able to comply in the early compliance periods.

Eligible CCI Entities Should Not Be Limited to Non-Profit Organizations

It is sound public policy to remove the limitation on CCI entity eligibility so that a greater number of organizations can be evaluated to serve as CCI entities. OBI enthusiastically supports this change. Businesses such as environmental consulting firms possess deep expertise in mitigating and improving environmental outcomes. These firms also possess significant administrative capacity, from project management to billing departments capable of providing detailed accounting reports of work completed, revenue collected and project expenditures. In the energy facility context, the Department of Energy has allowed covered sources to meet their CO₂ reduction obligations by either paying a set

amount per ton to a qualified third party or implementing projects directly or through a third party. There is no policy justification for not allowing equivalent options under the CPP at an equivalent price per ton.

Transparency and accountability for large sums is crucial to the CPP's success and will raise confidence in the handling of public resources that are bound by specific policy goals. Additionally, the CPP's requirement to maximize co-benefits such as improved air quality are more likely to achieve objectives if covered sources can engage in project development.

CCI Funds Should Be Used to Aid Businesses in Decarbonization and Clean Energy Development

The rule should more explicitly allow for businesses to receive CCI funding for verifiable GHG reduction projects, which would accelerate decarbonization innovation and the development of clean energy technologies. Although the Portland Clean Energy Fund has funded many worthy projects since its inception, it has also struggled at times to find enough appropriate projects to fund. Allowing for businesses to receive CCI funds for projects that foster innovation and leverage decarbonization would help the state achieve its carbon reduction goals faster.

Offsets

OBI urges DEQ to include offsets as an additional compliance option since offsets are subject to recognized accounting protocols and are widely recognized as an effective method for reducing GHG emissions. The inclusion of offsets would also provide regulated entities a compliance option that results in real, verifiable GHG reductions, reduces cost and potentially obviates the need for maintaining two separate GHG reduction accounting protocols.

Best Available Emissions Reduction

OBI supports the retention of the Best Available Emissions Reduction (BAER) program for certain facilities. These include manufacturing sectors that generate emissions resulting from chemical processes. Unlike reducing emissions from energy conservation or decarbonization technologies, there are very limited options for reducing process emissions. Including these sectors under the cap would certainly pose existential threats to these facilities and would certainly result in carbon leakage, since we know the demand will continue for cement and semiconductor products. In addition, EITEs that are direct connects should also be eligible to opt into the BAER program rather than being regulated under the cap.

The BAER requirements are incredibly rigorous. We urge DEQ to find ways to simplify BAER consistent with best available control technology (BACT) requirements. This modification would create a more clear, consistent process with the same outcomes as BAER and would significantly reduce the resources needed by both the agency and the regulated entity with the same result. Overly complex, costly requirements are often no more effective in achieving regulatory goals; they are simply more expensive and time-consuming.

From our previous comments, we must reiterate our concern that placing process emissions from the semiconductor manufacturing sector under the cap would seriously undermine Oregon's goal of

expanding this sector. Without BAER, it is a foregone conclusion that these major investments would be for naught. Further, Oregon's large and economically important semiconductor sector would contract substantially, taking with it material suppliers, skilled labor, tax revenue and community benefits like local project investments and volunteerism.

OBI encourages DEQ to require that BAER assessments evaluate GHG reduction measures that could lead to leakage if implemented.

Three-Year Compliance Periods Should Be Retained

The original CPP rules established compliance periods of three years, which should be retained in the proposed rule. Activist groups assert that time lost in CPP implementation should be addressed using shorter compliance periods or at least a few truncated compliance periods to demonstrate that Oregon is on track to achieve its carbon reduction goals. Longer compliance periods are simply a mechanism to provide flexibility that controls costs and allows for variations in production in emissions. Longer compliance periods do not exempt businesses from meeting their compliance obligations, but, rather provide regulatory stability and minimize risk. Enforcement mechanisms in the program are extremely rigorous, and fines for non-compliance are punitive. Compliance periods of three or more years provide the flexibility necessary to plan, budget, procure, install and implement emission reduction activities. There would appear to be value in adopting four-year compliance periods consistent with Washington's program, since numerous entities will be regulated under both the Oregon and Washington programs.

Thank you for the opportunity to comment on the discussion questions from the June 25 CPP RAC meeting. We look forward to discussing our comments with you.

Sincerely,

A handwritten signature in blue ink that reads "Sharla Moffett". The signature is written in a cursive, flowing style.

Sharla Moffett
Senior Policy Director

July 10, 2024

Department of Environmental Quality
Submitted Via Email: CPP.2024@deq.oregon.gov

RE: RAC Member Comments to EITE Proposed Language

Dear Colin and Nicole:

Thank you for this opportunity to comment on the Department of Environmental Quality's (DEQ) draft Climate Protection Program (CPP) rules presented to the Rulemaking Advisory Committee (RAC) at its June 25th meeting. As a RAC member with clients directly affected by the rules, I have significant concerns about how the proposed rules would negatively impact covered Emissions-Intensive Trade Exposed (EITE) sources and lead to an overall increase in greenhouse gas (GHG) emissions as a result of leakage. In order to reduce the negative impacts associated with the draft rules, I recommend DEQ make the following suggested changes.

Regulate covered EITE sources starting in the second compliance period

I appreciate that DEQ recognizes the need to provide special assistance to covered EITE sources in order to minimize leakage. As proposed, an entirely different regulatory system is anticipated to apply to covered EITE sources after the initial compliance period (i.e., they would shift from a mass-based program to an intensity-based program). Subject to the comments below, my constituents support the use of an intensity-based program. However, until that program is rolled out for the second compliance period, it makes no sense to regulate those sources under an alternate program that could impose significant economic impacts. It is impossible for sources to plan economic strategies with a shifting program and so no true purpose is served by regulating the EITE sources in advance of development of the intensity-based system. In addition, there is no reason to treat existing covered EITE sources differently from new covered EITE sources which are excused from any compliance obligation in the first compliance period per OAR 340-273-0410(3). For these reasons, I strongly encourage DEQ to focus on developing the intensity-based program and having it fully functional by 2028 for the second compliance period and not divert resources to start up and implement a mass-based program for a single compliance period. This suggestion could be implemented by revising the proposed OAR 340-273-0440 as follows:

**340-273-0440
Compliance Periods**

- (1) Each compliance period is three consecutive calendar years.
- (2) The first compliance period for non-EITE covered sources begins with calendar year 2025, and includes calendar years 2026 and 2027.

(3) The first compliance period for EITE covered sources begins with calendar year 2028, and includes calendar years 2029 and 2030.

(4) A new compliance period begins with the calendar year following the last calendar year of the preceding compliance period.

If covered EITE sources are included in the first compliance period, grant them allowances equal to actual emissions

While I believe that the best way to minimize serious negative impacts on covered EITE sources and to minimize unnecessary efforts by DEQ is to not regulate EITE sources until the second compliance period, an alternative would be to grant covered EITE sources allowances equal to their actual emissions during the first compliance period. Many Oregon sources have very different emission inventories today than they had in the 2017-2019 baseline. These covered entities responded to COVID by investing in their Oregon operations and increasing production capacity. Such sources will be severely impacted by the allocation of allowances equal to average emissions during the 2017-2019 baseline period. This severe shock to their business may be alleviated somewhat in the second compliance period as the state shifts to an intensity-based program, but the interim impact is large enough to force production out of the state. Once that production is gone, it is unlikely to return.

A straightforward means of avoiding this economic shock and to pave the way for the intensity-based program is to award allowances equal to actual emissions during the first compliance period. This suggestion could be implemented by revising the proposed OAR 340-273-0410 as follows:

340-273-0410

Distribution of Compliance Instruments to Energy-Intensive and Trade-Exposed Facilities

(1) DEQ will distribute compliance instruments to covered EITE sources according to this rule. DEQ will distribute compliance instruments from a cap no later than June 30 of each calendar year.

(2) In order to be eligible for an annual distribution of compliance instruments, a covered EITE source must:

(a) Provide DEQ with timely and accurate reports as required under OAR Chapter 340, Division 215;

(b) Hold a CPP permit as required by OAR 340-273-0150(4)

(3) In 2025, 2026 and 2027, DEQ will distribute compliance instruments to each covered EITE source equal to the average covered emissions for the covered EITE source in the prior calendar years 2017 through 2019. If DEQ does not have emissions data for a covered EITE source for one or more years from 2017 through 2019, DEQ will replace the missing year(s) with the most recent calendar year of emissions between 2017 and 2019 to calculate average covered emissions for 2017 through 2019. If DEQ does not have any emissions data for a covered EITE source from 2017 through 2019, DEQ will

~~calculate average covered emissions for 2017 through 2019 using the most recent three calendar years of emissions data.~~

Provide a clear and objective path for covered EITE sources to increase baseline to include emissions associated with permitted modifications made subsequent to baseline period

Although far less efficient than granting EITE covered sources allowances equal to actual emissions during the first compliance period, DEQ could alternatively create a clear, objective and simple means for sources that have changed since 2019 to update their baseline. Given the intended conversion to an intensity-based program in the second compliance period, the baseline would be primarily relevant to establishing allowances for the first compliance period (to the extent baseline impacts the intensity-based program, issues could be addressed in the subsequent rulemaking). In order to avoid severe negative impacts on EITE sources during the first compliance period, it is necessary to ensure that they can adjust their baseline in a manner that is predictable and consumes as few DEQ resources as possible. It would make no sense to create a resource-intensive process for adjusting the baseline where the baseline is of limited relevance in future compliance periods.

While it is critically important to allow covered EITE sources to readily change their baseline to reflect permit modifications that have occurred since 2019, this should not create a windfall. Consistent with the PSEL program, the baseline should be adjustable to reflect the permitted capacity that exists on the CPP's effective date (i.e., January 1, 2025). For some covered EITE sources that either have not built all permitted capacity or are not fully utilizing their existing capacity, allowances could be limited to actual emissions thereby avoiding a windfall. However, to the extent that covered EITE sources are using capacity that has been permitted prior to January 1, 2025, they should be allowed to adjust their baselines to reflect this increased utilization.

Below are suggested edits to the draft OAR 340-273-0410 language that would reflect this approach:

340-273-0410

Distribution of Compliance Instruments to Energy-Intensive and Trade-Exposed Facilities

(1) DEQ will distribute compliance instruments to covered EITE sources according to this rule. DEQ will distribute compliance instruments from a cap no later than June 30 of each calendar year.

(2) In order to be eligible for an annual distribution of compliance instruments, a covered EITE source must:

(a) Provide DEQ with timely and accurate reports as required under OAR Chapter 340, Division 215;

(b) Hold a CPP permit as required by OAR 340-273-0150(4)

(3) In 2025, 2026 and 2027, DEQ will distribute compliance instruments to each covered EITE source equal to the average covered emissions for the covered EITE source in

calendar years 2017 through 2019. If DEQ does not have emissions data for a covered EITE source for one or more years from 2017 through 2019, DEQ will replace the missing year(s) with the most recent calendar year of emissions between 2017 and 2019 to calculate average covered emissions for 2017 through 2019. If DEQ does not have any emissions data for a covered EITE source from 2017 through 2019, DEQ will calculate average covered emissions for 2017 through 2019 using the most recent three calendar years of emissions data.

(a) For any covered EITE source that begins operations in 2025, 2026, or 2027, DEQ will not distribute compliance instruments to the covered EITE source for the first compliance period and the covered EITE source is exempt from any compliance obligations under OAR 340-273-0450(3) for the first compliance period.

(b) For any covered EITE source with permitted capacity prior to the start of the first compliance period, that source can request that DEQ adjust the source's baseline to reflect that capacity. If the capacity has been permitted as required by OAR Chapter 340, Divisions 210 and 224, then DEQ will adjust that covered entity's baseline to reflect capacity. Allowances distributed to the covered entity in any year during the initial compliance period shall not exceed the covered entity's actual emissions. Requests for baseline adjustments must be made to DEQ in writing no later than July 31, 2028.

Covered EITE sources contribute a relatively small amount of GHG emissions to Oregon's total inventory. Given their small contribution to emissions and large contribution to Oregon's economy, it is appropriate for DEQ to not cause leakage by regulating covered EITE sources under the cap prior to establishment of the intensity-based program in the second compliance period. I have suggested above two alternative approaches that leaves the covered EITE sources regulated during the first compliance period while minimizing leakage. However, any approach that results in covered EITE sources being regulated during the first compliance period means a diversion of limited resources to implement a temporary mass-based program with little or no environmental benefits. For that reason, I believe that the most efficient way to address the covered EITE sources is to defer them until the second compliance period.

Thank you for considering these comments.

Mike Freese
CPP RAC Member



We Feed You



July 10, 2024

Nicole Singh
Oregon Department of Environmental Quality
Climate Protection Program
CPP.2024@deq.oregon.gov

RE: Food Northwest comments to DEQ on RAC #3 2024 Climate Protection Program Rule

Dear Ms. Nicole Singh,

Food Northwest served on the 2021 CPP rulemaking advisory committee (RAC) and we appreciate the opportunity to participate again in CPP rulemaking by serving on the 2024 CPP RAC. We are submitting the following comments and recommendations in response to the draft rule and questions and issues raised at RAC meeting #3 on June 25, 2024.

Established in 1914, Food Northwest is a trade association of food processors with manufacturing facilities in Oregon, Washington, and Idaho. Several of our members have facilities in Oregon with emissions greater than 25,000 MTCO₂e and would be directly regulated by the CPP. Many other members with facilities in Oregon will be financially impacted by the CPP compliance actions of their natural gas utilities and fuel suppliers.

Food Northwest strongly supports DEQ's proposal to recognize Emissions Intensive, Trade Exposed (EITE) industries and to provide important policy protections to avoid economic and emissions leakage from these businesses. Such protections were critical components to previous cap-and-trade policy proposals in Oregon (see HB 2020 (2020) and SB 1530 (2019)). They are also central to the California AB32 cap-and-trade program, as well as Washington state's Climate Commitment Act Program. We are extremely concerned, however, that while the framework of the rule has been changed, some EITE provisions of the draft rule will significantly increase costs to EITEs, make them less competitive with respect to regional, national and global markets, and will actually promote emissions and economic

leakage at the expense of Oregon’s economy, jobs, and global greenhouse gas emissions.

Food Northwest has the following concerns and recommendations:

Emissions-Intense Trade-Exposed Industries (EITE)

Table 7 EITE Source classifications

All sectors should be described by three-digit NAICS codes.

The draft rule should provide for entities to petition for EITE status.

Food Northwest recommends that the three-digit NAICS code 311 be used for food processing. For example, Washington [WAC 173-446A-030](#) identifies NAICS code 311 for Food Processing EITEs, which is a broader classification than DEQ’s 3114 NAICS code for Fruit and Vegetable Preserving and Specialty Food Manufacturing. This three-digit code would cover other categories of food processors (dairy, poultry, seafood, etc.) that are below the threshold of 25,000 MTCO₂e and may wish to opt in to the CPP or may become a covered entity at some time in the future. For the same reasons, all EITE sectors should be described by three-digit NAICS codes.

~~3114~~[311xxx](#) ~~Fruit and Vegetable Preserving and Specialty~~ Food Manufacturing

Further, any manufacturing facility that is not listed in Table 7 that can demonstrate to DEQ that it meets energy-intense and trade-exposed criteria should be eligible for treatment as an EITE and be eligible for allocation of no-cost compliance instruments. Washington’s Climate Commitment Act Program allows petitions for EITE classification (WAC 173-446A-030 (2)) and provides a process to determine EITE classification (WAC 173-446A-040). The Vivid Economics report includes a discussion and methodology used to determine EITEs in Oregon (*Vivid Economics, Oregon Sectoral Competitiveness under Carbon Pricing, December 2018, pp 30-61*).

OPT-IN for EITEs

The draft rule should provide for opt-in by EITEs with emissions less than 25,000 MTCO₂e.

The rule should provide for businesses with EITE NAICs codes but with CO₂e emissions less than 25,000 MT to opt-in to the Program. These businesses are at risk for emissions and economic leakage as well. An Opt-in Entity would be a party responsible for greenhouse gas emissions that has annual emissions of 10,000 MTCO₂e but less than 25,000 MTCO₂e and voluntarily participates in the Program. Opt-ins would assume the same compliance obligations as other EITEs and like EITEs they are not included as an obligation of the natural gas distributors. They may, however, opt out of the Program at the end of any compliance period and surrender any unused allowances to DEQ.

Distribution Of Compliance Instruments to EITEs. 340-273-0410

273-0410 (2)

The draft rule should provide for an expedited process limited to addendum of CPP requirements only.

This section provides that EITEs must have a CPP permit addendum to receive annual no-cost compliance instruments. The EITE permits are different from the permits required of fuel suppliers in that they are a modification of Air Contaminant Discharge Permits or Title V Operating Permits. Food Northwest has concerns that permit addendums will not be timely approved for distribution of these compliance instruments. We assume that these permit addendums will be required to go through the same process as other modifications to ACDP and Title V permits. This could be a lengthy process. EITEs need certainty that they will receive compliance instruments. Are you working with DEQ permitting to assure a CPP-focused and expedited process?

273-0410 (3). EITE Baselines

The draft rule baseline for EITEs should be current emissions and not the average of 2017 - 2019 emissions.

EITEs will be newly directly regulated under the Program beginning on January 1, 2025. Thus, they are new entrants to the Program and their baselines and compliance instrument distribution must be set based on contemporary emissions

levels rather than on emissions levels of nearly a decade prior. The proposed 2017 – 2019 baseline will impose significant costs, impact competitiveness, and promote leakage. Several food processing facilities have implemented plant expansions since 2017 – 2019 and their current emissions are higher than the 2017 -2019 baseline would be. These expansions were at the encouragement of the state and resulted in hundreds of new jobs in rural areas. Using 2017 – 2019 emissions levels will penalize these facilities and require an expenditure of millions of dollars for CCI credits in the first compliance period. To receive 100% no-cost allowances in the first compliance period (and avoid leakage of emissions, production and jobs) the baseline must equal an entity's average emissions for the first compliance period.

273-0410 (4). Emissions Intensity Baseline

The draft rule should require development of emissions-intensity baselines.

Baselines and compliance instrument distributions must be based on emissions intensity if this Program is to prevent extreme leakage. Intensity targets allow a business to set emissions reduction targets while accounting for economic growth. If facilities can't expand and/or increase production, they will close facilities and leave Oregon, or they will not invest in their Oregon plants and will move production to other states, both situations resulting in leakage. It will also cost Oregon existing and future jobs and will be particularly devastating to the economies of rural areas.

While this section of the draft rule provides that DEQ will work to develop an emissions intensity approach, there is no certainty that this will be achieved by the start of the second compliance period. EITEs need more assurance that growth and expansion will not be restricted by the CPP.

Development of an emissions-intensity based rule for timely consideration by the EQC is very achievable. EITEs report emissions data to DEQ. Production data is reported to DEQ as well, but DEQ could require that production data be reported concurrently with emissions data. Further, methodologies are already available. Washington's CCA rule, [WAC 173-446-220](#), describes its emissions-intensity baseline calculations and allocation of no-cost allowances. Washington requires EITEs to submit a proposed baseline to the Department of Ecology with supporting information. Ecology then reviews the submissions and approves facility baselines.

Food Northwest urges that language such as the following replace proposed section 273-0410 (4):

On or before March 31, 2026, DEQ staff will initiate a process to develop and adopt a rule for EITE compliance instrument distribution baselines based on emissions intensity for the second and subsequent compliance periods.

273-0410 (5). Default Option

The proposed default option to the emissions-intensity baselines must be deleted from the draft rule and replaced with 100% no-cost compliance instruments until the emissions-intensity rule is adopted

Food Northwest is strongly opposed to the default option to emissions-intensity baselines proposed in this section. EITEs are ready to participate with DEQ in the process to develop an emissions-intensity rule. The 7% emissions reduction targets in Table 8 provide no treatment for EITEs and will promote leakage. EITEs should not be penalized if DEQ fails to develop and adopt such a rule by the start of the second compliance period. If DEQ fails, the second and subsequent compliance periods should be the same as the first compliance period, 100% no-cost allowances, until an emissions-intensity rule is adopted.

Food Northwest urges DEQ to adopt a 3% reduction target for the emissions-intensity approach. Washington's Climate Commitment Act program emissions reduction target for EITEs is 3% per four-year compliance period.

340-273-0310. BAER

Food Northwest supports a BAER program for process emissions.

Because of the difference in the source and production of emissions between natural gas combustion and process emissions and the unique technology solutions and feasibility of reductions for process emissions, we believe process emissions should be addressed through BAER rather than under a cap. It may be that some facilities with process emissions would choose to include natural gas emissions within their BAER assessments as well, and we believe this should be an option. Food Northwest suggests adding the following to 340-271-0310(1)(a): Applies to process emissions at covered stationary sources. At the option of the

owner or operator, emissions from the combustion of natural gas and solid fuel may be included in the BAER assessment and will be exempt from the requirements of 340-271-0420. This option should also be available to facilities with only combustion emissions should they choose to be regulated under BAER.

340-273-0440 COMPLIANCE PERIODS

Retain the three-year compliance periods.

DEQ should retain the three-year compliance period of the original CPP. Reduced compliance periods were raised at the RAC meeting suggesting that this was necessary to make up for lost time and to expedite funding for CCI projects. However, DEQ showed that emissions reductions have exceeded obligations and if banking CCIs was allowed funding would be expedited.

Any timeframe less than three years will impose a compliance hardship rather than flexibility for EITEs as well as other covered sectors. Emissions reduction projects, other than “low-hanging fruit” types, may take a significant amount of time, often several years, because they can require auditing, planning, budgeting and financing, approval, procurement, installation, and verification of emissions reductions to complete.

COMMUNITY COMPLIANCE INVESTMENT (CCI) CREDITS

340-273-0820 (3)(b). Cost of CCI Credits

Food Northwest urges DEQ to align CCI credit prices with regional markets.

The CCI credit contribution amount established in the original CPP was among the highest of carbon credit or allowance prices in the world. DEQ proposes to increase the 2025 program price to \$129 dollars. Current carbon prices per MTCO₂e of Oregon’s neighbor states and other carbon reduction programs are substantially below Oregon’s price: Washington \$25.76 on March 13, 2024; California and Québec \$41.76 on February 14, 2024; Nova Scotia \$25.72 on August 23, 2023; United Kingdom \$40.17 on May 21, 2024; and European Union average of \$70.57 (2023). (*International Carbon Action Partnership*, [Allowance Price Explorer](#).) At \$93.35

on March 22, 2023, Switzerland's price was among the highest. However, the March 16, 2024, price fell to \$60.06. [Swiss Emissions Trading Registry](#)

At RAC meeting #3, DEQ indicated that the CCI price is based upon the Environmental Justice Community's estimation of the cost of projects to reduce GHG emissions. All the programs listed above administer and fund programs with revenues collected from the purchase of allowances at auction. California does not set its carbon price based on estimated project costs. While California's February 2024 auction price was \$41.76 per metric ton, "California Climate Investments programs are reducing GHG emissions at an average cost of \$96 per MTCO_{2e}." (*2023 Annual Report California Climate Investments Using Cap-and-Trade Auction Proceeds, April 2023, p. 37*).

At three to five times higher than our neighbor states, the draft rule's proposed CCI credit costs are extraordinary and extreme. Oregon EITEs will be disadvantaged with respect to their competitors in Washington and California (and especially Idaho, with no carbon program). In addition, fuel suppliers pass through the cost of CPP compliance to their customers. The level of rate increases that are being proposed by the natural gas utilities to address the cost of purchase of CCI credits will impose hardships on many residential and business customers. A credit price that is aligned with neighboring states will moderate cost impacts and leakage risks while providing ample funding for EJC projects. Balancing GHG reductions, EJC benefits, and economic impacts demands regional alignment on pricing.

340-273-0830 Holding CCI Credits

Food Northwest urges DEQ to allow banking of CCI credits and to delete paragraph (1)(b) of 273-0830.

DEQ indicated that it prohibited banking of CCI credits because it wants covered entities to reduce their greenhouse gas emissions. On the other hand, DEQ and EJC communities want to expedite funding of CCI entities and CCI projects. Emissions reductions and expedited funding can both be achieved with banking of CCI credits. Banking of CCI credits will incentivize covered entities to purchase CCI credits earlier because prices will be increasing. Covered entities will still have to reduce their greenhouse gas emissions because the compliance obligation that can be demonstrated with CCI credits is limited in Table 5. Banking would also avoid penalizing covered entities by forfeiture of CCIs because they had estimated and

purchased more CCIs for a compliance period than they eventually needed or were able to use. Without the ability to bank, to avoid losing credits, covered entities would purchase CCI credits as late as possible for compliance and this would delay funding for CCI entities.

340-273-0900. Purposes and Uses of CCI and Eligible Uses of CCI Funds

Food Northwest requests that DEQ specify a process by which EITEs and other businesses can apply directly to the CCI entity and receive funding for eligible projects.

Section (2)(a) provides that eligible projects include transportation of freight, an existing or new industrial process or structure, and an existing or new commercial use or structure. But the draft rule fails to include a process for funding application by non-environmental justice community entities, and sponsorship of EITE projects by EJs is an unrealistic option. Excluding EITEs and other businesses from using these funds to reduce greenhouse gas emissions at their facilities is a lost opportunity to accelerate emissions reductions in this sector, reduce other emissions, and avoid leakage. It also places Oregon EITEs on an un-equal playing field with manufacturers in Washington and California and the European Union.

The European Union, Washington state, and California provide funding from their climate program investments to EITEs and other entities to reduce energy use and greenhouse gas emissions. Oregon EITEs compete with industrial facilities in the EU, Washington and California and are at a competitive disadvantage when they cannot access program investment funds. Food Northwest members have toured food processing facilities in the EU and have seen the efficiency improvements and technologies installed with EU carbon funds.

The draft rule allocates 100% of CCI funds to environmental justice communities. Food Northwest recommends that 35% of CCI funds be available to EITEs and other businesses for programs, actions, and projects that meet CPP requirements. It has been suggested that this funding is not necessary because there is ample funding available from federal sources. True, there is ample funding for states, tribes, non-profits, and EJs. But funding for manufacturers is focused on research and demonstration, which is really only usable by very large corporations with significant resources and R & D staff. Of the 111 funding opportunities listed on

Oregon Department of Energy's [IIJA & IRA Tracker](#), only one would be applicable to most Oregon EITs and businesses. Food Northwest tracks funding opportunities for its members and we are aware of these limitations for manufacturers.

Washington's Climate Commitment Act allocates a minimum of not less than 35% and a goal of 40% of total investments to direct and meaningful benefits to vulnerable populations within the boundaries of overburdened communities Sec. 26(1)(a); and a minimum of not less than 10% of total investments to be used for programs, activities, or projects formally supported by a resolution of an Indian tribe Sec 26(1)(b). The remainder of investments are directed to a multitude of emissions reduction and climate resiliency efforts. These efforts include programs, activities, or projects that increase the energy efficiency or reduce greenhouse gas emissions of industrial facilities in Sec 29 (e).

California's SB 535 and AB 1550 require at least 35% of California Climate investments benefit "priority populations" (disadvantaged and low-income communities and individuals). The remaining funds are available for other purposes including industrial, transportation, and climate resiliency. One of these is a special fund available to all food processors, the [Food Production Investment Program](#). To date, this program has provided \$124 million to California food processors. In 2022, a Food Northwest member with facilities in California received funds to implement boiler condensate recovery at two of its facilities. These projects reduced boiler fuel use, greenhouse gas emissions and other pollutant emissions, as well as reduced water use.

340-273-0910 (1). CCI Entity

CCI Entity eligibility should not be limited to 501(c)(3) organizations.

Food Northwest supports allowing non- 501(c)(3) organizations doing business in Oregon to be eligible as a CCI entity. This could increase the pool of applicants for CCIs. Entities should be evaluated upon their ability to manage and implement sizable programs such as the CCI. Concerns raised about priorities, project purposes, costs of administration and implementation can be addressed through contracts.

340-273-8100 (1) Program Review

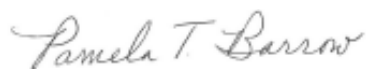
DEQ's report to the EQC on community climate investments should be available to the public as well as other reports and data.

This section of the draft rule provides that DEQ's periodic report to the EQC on community climate investments will only be shared with the current members of the Equity Advisory Committee. There is no public reporting. The covered entities that purchase CCI credits, and the public who will be impacted by the CCI credit expenditures of covered entities, expect that use of the funds will result in actual greenhouse gas emissions reductions, as well as meet the other purposes of these investments. Support for the CPP will be promoted by transparency in how funds are used at every stage in the CCI process: the workplan, DEQ's two-year reports and its five-year report. California makes [data and reports](#) on the use of auction proceeds publicly available. Both Washington and [California](#) have public review processes for use of funds from cap-and-trade revenues. We recommend that Oregon be similarly transparent.

Conclusion

Food Northwest appreciates the opportunity to provide these comments to DEQ. We look forward to continue working with DEQ throughout this rulemaking process to develop a program that provides protections for food processing EITEs and other EITEs and achieves meaningful reductions in greenhouse gas emissions. Please contact me if you have any questions on our comments or would like additional information.

Sincerely,



Pamela Barrow
Vice President
Food Northwest



**NWPPA second preliminary comments to DEQ on
2024 Climate Protection Program Rule
July 9, 2024**

The Northwest Pulp & Paper Association (NWPPA) appreciates the ongoing collaboration with DEQ on the 2024 Climate Protection Program (CPP) rule. As noted at the third and final Rulemaking Advisory Committee (RAC) on June 25th, we believe the agency has been more open this go-round to hearing from Oregon manufacturers that are energy-intensive and trade-exposed (EITE) and why avoiding greenhouse gas (GHG) emissions – and jobs – leakage is so important. We’ve heard consensus among DEQ and RAC members that we must get this policy right in order to avoid this 2024 CPP rule from also creating a net increase of global GHG emissions due to production shifts to higher carbon emitting jurisdictions. We also appreciate DEQ’s willingness to include recognition of the economic and environmental challenges facing Oregon’s EITE sector with policy provisions and protections in the preliminary 2024 CPP rule to-date.

That said, given the compressed timeline of this RAC and rulemaking process, the current draft of the preliminary 2024 CPP rule continues to fall short of providing the necessary tools for Oregon’s pulp and paper sector to compete in national and international markets. The preliminary 2024 CPP rule doesn’t avoid GHG leakage and may encourage EITEs to relocate outside of Oregon. In fact, one of our member facilities has done an initial fiscal impact comparison of the 2021 CPP and the preliminary draft of the 2024 CPP rule and has concluded that the preliminary 2024 CPP rule has the same enormous compliance costs as the previous 2021 rule.

Prior to final rule adoption, we believe that DEQ must include the following changes to the draft rule:

1. **Baseline/carbon intensity benchmark.** One of the ongoing fundamental flaws of the preliminary draft rule is that it doesn’t allow for growth and production increases by Oregon’s manufacturers. The rule specifically disincentivizes any growth by Oregon manufacturers.

As currently drafted, the preliminary rule includes a mass-based GHG reduction requirement for EITEs. Although compliance instruments would be given to EITEs at no cost during the first compliance period (2025-2027), many of our members have invested in and grown operations in Oregon since the proposed 2017-2019 baseline. Therefore, many mills would have to purchase additional Compliance Instruments (CIs) (if even available on a secondary market) or cost-prohibitive Community Climate Investments (CCIs) during the first compliance period, which would immediately place them at a competitive disadvantage – and cause out of state productions shifts and leakage.

Although pg. 25 of the preliminary draft rule refers to a carbon “baseline emissions intensity value” for EITEs in 340-273-0410(4), it stops short of actually adopting this policy or providing

details on how such a policy would be crafted making it impossible for covered entities to anticipate how it would affect their operations. Instead, the preliminary rule proposes a future rulemaking amendment to the rule. Oregon's EITEs need the certainty and predictability of a carbon intensity benchmark to be included in this final rule. Without it, a mass-based set of compliance standards will either (a) require facilities to purchase CIs or CCIs during the first compliance period; or (b) reduce production to comply; or (c) both. Any of these scenarios will create out-of-state production shifts and leakage.

Solution: As requested in our May 22nd comments, DEQ must adopt an option for a carbon intensity benchmark for EITEs in this rule. Other jurisdictions with carbon pricing programs including Washington¹, California and Quebec, have adopted this policy. A carbon intensity approach will allow Oregon manufacturers to grow production while maintaining or reducing the carbon intensity in the products they make, which will in turn reduce GHG emissions. In addition, the economic reality for many manufacturers is very different today than it was in the proposed baseline period of 2017-2019. The rule needs to provide flexibility to manufacturers to apply for use of more representative baseline periods as imposing draconian emissions limits to today's operations could be disastrous to some facilities.

2. **Second and subsequent EITE compliance periods.** In furtherance of the above concerns, Sec. 340-273-0410(5) of the preliminary draft rule contemplates DEQ NOT adopting a carbon intensity benchmark. In this event, for the second and subsequent three-year compliance periods, the emissions reduction targets in Table 8 (OAR 340-273-9000) on pg. 62 of the rule would apply. Table 8 contemplates a 7% reduction of no-cost allowances for every three-year compliance period. This is significantly more than the reduction of no-cost instruments included in Washington's Climate Commitment Act, which is a 3% reduction every four-years until at least 2034. For comparison, in 2034 the Washington program will allocate allowances equal to 94.1% of an EITE entity's baseline carbon intensity while Oregon's proposed rule would see only 79% of the baseline absolute emissions allocated to EITE entities. This extreme reduction schedule will severely and negatively impact manufacturers in Oregon.

Solution. The emission reduction targets for the second and subsequent compliance instruments must be no steeper than Washington's CCA. Otherwise, Oregon will not even be competitive with Washington state.

3. **Cost of CCIs.** As noted above, under the preliminary draft rule and using a mass-based compliance approach, many EITEs would very likely need to purchase CCIs as early as the first compliance period (2025-2027). Table 7 (pg. 39) of the preliminary rule shows CCIs ranging from \$129/ton in 2025 to \$153/ton in 2050. Washington's credits have recently averaged \$53/ton and California's credits have recently traded at \$36/ton. Oregon's CCIs would roughly be double the cost of Washington's credits and over triple the cost of California's credits, again putting Oregon EITEs at a competitive disadvantage.

Solution. Oregon's CCIs should be cost-indexed with Washington and California.

¹ See: [Revised Code of Washington Ch. 70A.65.110\(3\)\(a\)](#); and [Washington Administrative Code Ch. 173-44-220](#).

4. **EITE opt-in provision.** In order to qualify for EITE protection, a facility must do two things: (1) show its NAICS code listed in Table 7 (OAR 340-273-9000)(pg. 61) and (2) have annual GHG emissions equal to or greater than 25,000 mtCO₂e. However, several EITE facilities in Oregon meet the first requirement (NAICS) but emit less than 25,000 mtCO₂e. These EITE facilities will be subject to the Local Distribution Companies (LDC) environmental surcharge that is passed on to the customer for the LDC to meet compliance. This too will create production shifts out-of-state and leakage. Therefore, such a facility that is highly trade-exposed, but has e.g. 24,000 mtCO₂e of emissions wouldn't qualify for EITE treatment and would receive no protections.

Moreover, our preliminary review of the draft 2024 CPP rule and corresponding Fiscal Impact Analysis concludes that our two members in Halsey, Oregon may experience double regulation under the rule. With their unique operating arrangement, one facility may be deemed as EITE, whereas the other may not. This could result in complicated compliance requirements for one or both facilities. We do not believe it is DEQ's intent to create duplicative impacts for these facilities. We propose working with the LDC and DEQ to resolve any unpredictability prior to final rule adopt by the agency.

Solution. Take the time to consider the rule's effects on these facilities and create flexibility by creating an opt-in provision. One possibility is to follow Washington's CCA opt-in provision.²

5. **CPP permit certainty.** OAR 340-273-0150(4) contains a new requirement for owners and operators of a covered EITE source to apply for a CPP permit addendum and pay an annual fee. Unfortunately, NWPPA has seen recent radical permitting fee increases in other DEQ programs without corresponding program efficiency changes or reforms. We're very concerned we could see the same problems emerge with this fee. DEQ must provide assurances, sideboards and protections for regulated EITEs to avoid this problematic spillover into the CPP program.

Solution. DEQ should take a step back and determine how the CPP program and permitting process will be implemented, the staffing requirements, and how the program is to be funded. DEQ's draft fiscal statement indicates that the CPP permit would be managed by the existing programs such as the Title V Program. The Title V Program has just undergone a significant fee increase of 83% to support the existing program. The fee increase does not allow for the Title V program to increase staff to manage the workload of the CPP program. This will lead to more fee increases for sources along with the costs of the purchasing compliance instruments or community climate investments.

Conclusion

Again, NWPPA very much appreciates the opportunity to serve on the 2024 CPP RAC and work collaboratively with DEQ and other stakeholders. That said, we continue to question the extent of DEQ's legal authority to adopt a revised CPP rule, in whole or in part, and reserve any and all remedies necessary to protect our industry's interests and needs in this matter.

² See: [RCW 70A.65.110\(2\)](#)



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July 10, 2024

Colin McConnaha
Nicole Singh
Office of Greenhouse Gas Programs
Oregon Department of Environmental Quality
Sent Via Email: CPP.2024@deq.oregon.gov; Colin.McConnaha@state.or.us;
Nicole.Singh@state.or.us

RE: Oregon Fuels Association Comments to DEQ's CPP DRAFT Rules

Dear DEQ:

Thank you for the opportunity to comment on the DRAFT rule for the new Climate Protection Program (CPP). The Oregon Fuels Association (OFA) is the voice of Oregon's locally-owned fuel stations, fuel distributors and heating oil providers. OFA members are at the forefront of environmental stewardship within the industry and continue to make investments toward a cleaner, greener economy by investing in blending technologies designed to promote the use of lower carbon fuels and renewable fuels.

At a high-level, OFA believes re-establishing the CPP should keep consumers in mind, recognizing existing and growing pressures on family budgets from inflation. DEQ has an opportunity to re-establish a program that can meet Oregon's Greenhouse Gas (GHG) reduction goals without immediately shocking transportation fuel consumers with increased costs by recognizing and compensating transportation fuel companies that helped the state exceed the GHG reduction goals from the previously adopted program.

As a leader in reducing the state's greenhouse gas emissions, please accept OFA's brief comments following CPP RAC Meeting #3:

1. OFA Supports the DRAFT emissions cap and baseline years that are the same as previously adopted: 2017-2019.

OFA strongly believes that if DEQ decides to carry forward the same emissions cap as adopted in 2021 into 2025, it should also use the same 2017-2019 baseline. On the other hand, if the agency determines it prefers a new baseline, it should also adopt a new, higher GHG cap based on 2024 total GHG emissions with no decline until 2025.

2. OFA Supports compliance instrument distribution for reduced emissions during 2022-2024 for transportation fuel suppliers above the 100,000 MtCO_{2e} regulatory threshold.

OFA supports the DRAFT language that allocates compliance instruments to entities that stayed below the CPP cap previously adopted and again proposed in this new rule. As demonstrated by DEQ, the transportation fuel sector reduced emissions below the previously adopted regulatory cap. That means that some regulated parties were banking instruments for future compliance requirements. OFA strongly encourages DEQ to consider allocating compliance instruments for reductions achieved in 2022-2024 and allowing fuel importers to freely use those instruments to protect consumers and clean fuels investments. Moreover, all newly regulated entities will effectively be new market entrants under a newly adopted program. DEQ should afford all new regulated entities (presumably those reporting over 100,000 MtCO_{2e}) the same benefits to ensure a smooth transition to a newly adopted cap.

3. OFA Supports DRAFT rules that promote trade and bankability of compliance instruments. OFA Opposes placing restrictions on compliance instruments allocated for the years 2022-2024.

The DRAFT rules provide that all compliance instruments are both tradeable and bankable. This is the best way to allow regulated businesses needed flexibility that will help the state's unpredictable transition toward lower greenhouse emissions energy sources. Oregon relies heavily on out-of-state transportation fuels, and we are at the mercy of international markets, weather events, and aging infrastructure to deliver fuels that Oregonians need. Providing the most flexibility will only help every-day Oregonians without compromising any of the environmental integrity of the program.

4. OFA Requests DEQ 2025 compliance instrument distribution include the best of 2023 or 2024.

For the initial compliance instrument distribution, OFA supports rules that will allocate compliance instruments using the better of 2023 or 2024 emissions data to calculate proportional share of the emissions cap distribution. Since the 2025 distribution of compliance instruments will be based on past year(s) emissions, it's important to recognize the significant change in market dynamics that occurred in 2024. In order to get the most representative year, OFA supports using the better of 2023 or 2024 for making the 2025 distribution (not just looking at 2024).

5. OFA Opposes the DRAFT proposal for recalculating compliance instrument distribution.

DEQ is proposing to distribute compliance instruments to certain stationary sources before allocating the remaining compliance instrument to liquid fuel suppliers. Taking those

compliance instruments off the top of the available compliance instruments will leave fewer instruments for the transportation sector. In essence, splitting the loss of compliance instruments with natural gas fuel suppliers even though the stationary sources are pulling from that regulated sector independent of the transportation fuel sector. Put another way, the cap on transportation fuel suppliers is being reduced below what was previously adopted. OFA opposes the DRAFT distribution formula and requests that DEQ allocate compliance instruments to the transportation sector first, before the remaining regulated entities.

Conclusion

OFA believes the strongest program will encourage importing renewable fuels, minimize cost impacts to consumers already struggling with inflation, and incentivize GHG reductions throughout our economy – not just overburdensome regulations on our essential transportation sector.

Sincerely,

Mike Freese
OFA Lobbyist

Colin McConnaha

Nicole Singh

Office of Greenhouse Gas Programs

Oregon DEQ

Re: Oregon CPP 2024 Comments

Thank you for your consideration during these three RAC meetings while working towards starting the Oregon Climate Protection Program starting in 2025. It was informative to be part of the group and hear all sides of the equation when contemplating the new program.

Early Adoption Credits

Space Age Fuel supports the plan as presented by DEQ at the 3rd RAC meeting in how to calculate and distribute early adoption credits. As we have discussed Liquid Fuel Suppliers were active in embracing the program and adopting practices to exceed the CAP reductions. Those successes were helpful in creating some flexibility in the program. It was our understanding DEQ was expecting some of that success and factoring it into the forecast of the program. The plan from DEQ addresses getting those credits back into the market while maintaining the integrity of the CAP.

DEQ did not propose any restriction to trade or bankability of these credits which I believe is the best method for them to do what their intended to do and create liquidity in these markets. There was conversation of restricting the trade or distribution of these credits over a timeline. Space Age Fuel does not support the idea of restricting these credits or distributing them over a timeline. They are credits for emissions that were reduced beyond the cap and should remain in the market as such. They will not alter or harm the emissions goals of the program. Our liquid fuels market is fluid and changes occur in supply and suppliers. These credits having flexibility to move allow those changes to occur and help prevent a “short” market situation with tight supply and higher prices. Those higher prices directly impact Oregon consumers in both transportation fuel and cost of goods used every day. This would also restrict the value of these credits to parties that only import non obligated fuels (Renewable and Biodiesel) as they can’t use them unless they decide to bring in an obligated product. Those incentives have been crucial in getting those suppliers to bring this cleaner fuel to our state.

2025 Distribution

The 2025 distribution of credits as it stands would be based on 2024 emissions data. The original CPP was overturned in December of 2023. Until that point obligated parties had been acting and making decisions with their obligation in mind. The burden of obligation in some cases was shifted to smaller suppliers in order to offset that requirement. In 2024 with the CPP overturned that decision making process has been reversed as there is an incentive to gain as much share as possible without having the obligation component. It is Space Age Fuel's opinion that DEQ should consider using 2023 emissions data in calculating the 2025 distribution. That approach could be viewed in two ways. 1 – Use 2023 emissions data in calculating the 2025 CAP distribution. 2 – Use a better of 2023 or 2024 emissions data to calculate proportional share of the CAP distribution.

DEQ has a history using this second method as was noted in the changes proposed during the 2023 CPP Rulemaking. This would be a one-time alteration of distribution and in successive years a one year lookback can be used. The only reason for this one-time alteration is the integrity and intent of the CPP program with an odd year of no obligation.

From: [Logan Staub](#)
To: [2024 CPP * DEQ](#)
Subject: CPP 2024 Public Comment
Date: Friday, July 5, 2024 2:48:03 PM

You don't often get email from logan.staub@edstaub.com. [Learn why this is important](#)

I would like to encourage DEQ to keep CCI's open to any entity regardless of its for profit or non-profit affiliation. When we look at the purpose for the CPP it is to "Reduce greenhouse gas emissions to address the worsening effects of climate change." So why would we shut off the private sector to join in on this goal? Listening to the reasons opposing opening CCI's to the private sector in RAC #3 the main and only argument was that "501's care about the communities". But if I understand how the CCI program works, weather you're a for profit entity or a non-profit entity you'll have to go before the Equity Advisory Committee to get everything approved. Since there is a mechanism for checks and balances I do not see the risk in opening this up to the private sector. It seems very peculiar that the same people advocating to reduce carbon AT ALL COSTS, and the same people who don't bat an eye at the forecasted increase in electricity prices as the CPP moves forward, are so dead set against opening up CCI's to the private sector. The private sector historically innovates faster and produces results at a lower cost regardless of the industry we're talking about. I see zero downside to opening CCI's up to the private sector. The only reason I believe many of the members of the RAC oppose this is because if CCI's are opened up to the private sector, it'll mean less money being funneled into their non-profits and they may actually have to produce results in order to get in. I strongly urge DEQ to keep CCI's open to anyone (pending approval by the EAC) if the goal is to reduce carbon. By locking this down to only non-profits I feel it would prove that this isn't about reducing carbon, but about funding pet project non-profits. I will lose a tremendous amount of faith in the entire CPP if DEQ caves in on this as it is very clear which decision will give Oregon the best advantage to reduce carbon and reduce it quickly and cost effectively.

Thank you

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Logan Staub

logan.staub@edstaub.com
www.edstaub.com

From: [Logan Staub](#)
To: [2024 CPP * DEQ](#)
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Thank you

--

Logan Staub

logan.staub@edstaub.com
www.edstaub.com



Sent via email to: cpp.2024@deq.oregon.gov

July 3, 2024

Nicole Singh

Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100

RE: 2024 CPP Rulemaking – RAC #3

Dear Ms. Singh:

Thank you for the opportunity to participate in the Rulemaking Advisory Committee (RAC) process for the 2024 Climate Protection Program (CPP). The dialogue between the Oregon Department of Environmental Quality (ODEQ) staff and the RAC members has been constructive and respectful during these past three meetings.

In January, HF Sinclair submitted written comments after ODEQ's listening session. The letter stated that "a statewide program should be fair for all covered entities. While the CPP was invalidated, we can still take lessons learned and apply them moving forward. Fuel suppliers altered business plans and made financial investments in an effort to comply with the then existing CPP. The investment from HF Sinclair was significant. HF Sinclair takes this concept of equity to heart and we strongly believe it should apply to the 2024 CPP rulemaking."

In the listening session and throughout the three RAC meetings, HF Sinclair has made the case that as a matter of fairness, any party that engaged in trading compliance instruments or purchased community climate investment credits, brought in biofuel, changed their practices to include biofuels or reduced fuel imports in 2022 and 2023 under the prior CPP should receive a one-time allocation of such compliance instruments exclusive of the starting 2025 cap. Businesses made decisions and investments based on complying with the prior CPP in a good faith effort to comply with the rules.

While the current draft does include additional instruments for biofuel imported to Oregon from 2022-2024, it does not give any consideration to trades that were conducted under the prior rule. This deliberate omission sends a clear message to fuel suppliers that trading compliance instruments and purchasing Community Climate Investment credits (CCI) is extremely risky. The policy decision from ODEQ under the current draft will send a market signal to the private sector that if anyone trades instruments or buys CCIs, the fuel suppliers will be left holding the bag if the new CPP is invalidated, withdrawn, or amended.



ODEQ has stated throughout the rulemaking process that it was looking for cost-containment ideas. Yet by not addressing trades made under the prior rule, ODEQ is injecting uncertainty into the market which will likely prevent the use of cost-containment tools.

HF Sinclair urges ODEQ to reconsider this issue by allocating additional compliance instruments in 2025 for fuel suppliers who traded instruments or purchased CCIs under the prior rule. This would not only restore the previous program that would be in existence today if not for the court ruling, it would also assure program participants that the State of Oregon is acting in good faith with the private sector to reduce carbon emissions.

Recall that the courts did not rule on constitutional authority, thus future litigation is still likely under a new CPP and the threat of another invalidation is very real. The same inequity that is happening today to HF Sinclair could happen to another fuel supplier in the future. If the CPP is expected to be successful, the state and the regulated fuel suppliers need to work together.

HF Sinclair stands ready to work with ODEQ and correct the inequity that will occur under the current draft rule.

Sincerely,

Jeremy Price
Manager, West Coast Government Affairs

Cc: Director Leah Feldon



James Verburg
Regulatory Advisor
US Biofuels Value Chain



bp America Inc.
30 South Wacker Drive
Chicago, IL 60606

July 9, 2024

Oregon Department of Environmental Quality
VIA e-mail
Climate.2024@deq.oregon.gov

Re: 2024 Climate Rulemaking Advisory Committee Meeting No. 3 – June 25, 2024

Dear Department of Environmental Quality Staff:

On behalf of bp America Inc. (“bp”), we thank you for the opportunity to participate in the Rulemaking Advisory Committee for the Oregon Department of Environmental Quality’s (“DEQ”) 2024 Climate rulemaking. bp’s ambition is to become a net zero company by 2050 or sooner, and to help the world reach net zero, too. Consistent with this ambition, we are actively advocating for policies that address greenhouse gas (“GHG”) emissions.

After participating in the 2024 Climate Rulemaking Advisory Committee (“RAC”) meetings, we wish to provide the following comments and suggestions for consideration.

2025 Base Cap Adjustment / Distribution

bp supports the program starting point using the original 2025 baseline cap adjusted for intrastate EITE emissions. In addition, bp supports DEQ’s proposals on reasonable distribution of compliance instruments to EITEs, natural gas suppliers and liquid fuel suppliers including the one-time additional distribution according to draft OAR 340-273-0400 that could have been banked into 2025 based on the share of biofuel GHG emissions from 2022 through 2024. As stated in its May 2024 comment letter, bp agrees that these measures support DEQ’s objective of ensuring that cumulative GHG emissions reductions and cap trajectory for the original Climate Protection Program (“CPP”) be met while allowing fuel suppliers to be recognized for early action in reducing GHG emissions.

Compliance Periods and Compliance Demonstration

As previously noted, bp supports entities having within their compliance account sufficient compliance instruments of former vintage years to cover at least a percentage of its covered emissions for the previous calendar year, followed by a true up at the end of the three-year compliance period. (This would follow the methodology used within Washington’s Cap and Invest program that has this value set at 30%¹.) In order to encourage bilateral trading, compliance instrument price discovery and earlier deployment of Community Climate Investments (“CCIs”) for

¹ <https://app.leg.wa.gov/WAC/default.aspx?cite=173-446-400>

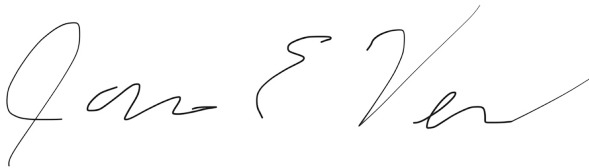
the Oregon CPP, bp believes a higher proportion of 75% to 85% of total previous year's GHG emissions would be appropriate.

Forward Program Stability and Proactive Program Decisions

bp remains concerned that there are limited compliance options and risks to program stability as the CPP progresses and stringency increases in future compliance periods. DEQ's Draft Fiscal Impact Statement ("FIS")² and meeting No. 3 RAC presentation³ contains estimates of the cost impacts per gallon of motor gasoline and diesel between 2025 and 2050 based on a macro-economic analysis performed by third parties. These estimates, however, assume that *"key program elements such as the use of CCIs and a significant emissions reduction trajectory"* occur in a predictable manner and that the program is structurally stable in future years. bp encourages DEQ to continue to consider embedded program safety valves or mitigation measures, such as the *"forward forecasting approach"* in the Oregon Clean Fuels Program as proposed in bp's May 2024 comment letter to *"avoid the CPP potentially entering a phase where it is structurally challenged"* and *"provide greater certainty for regulated entities that they can both meet consumer demand and remain compliant with the program."*

We appreciate and look forward to the continued opportunity to work with DEQ in the 2024 CPP rulemaking process. Please reach out if you have any questions via james.verburg@bp.com.

Sincerely,



James Verburg
Regulator Advisor; Biofuels Value Chain

cc: mark.bunch@bp.com, thomas.wolf@bp.com, katharyn.cordero@bp.com

² <https://ormswd2.synergydcs.com/HPRMWebDrawer/Record/6757487/File/document> (Accessed 7/02/2024)

³ *ibid*



Sent via Email: CPP.2024@deq.oregon.gov

June 21, 2024

Oregon Department of Environmental Quality
Attn: Nicole Singh, Senior Climate Policy Advisor
700 NE Multnomah Street, Suite 600
Portland, OR 97232

Re: Climate Protection Program 2024 Rulemaking

COMMENTS OF THE PACIFIC PROPANE GAS ASSOCIATION

On behalf of the Pacific Propane Gas Association (PPGA), which represents propane marketers, wholesales, suppliers, and equipment manufacturers across Oregon, we appreciate the opportunity to provide input regarding the Department of Environmental Quality's (DEQ) 2024 Climate Protection Program (CPP) Rulemaking. Our members provide clean-burning and critical energy to residential, commercial, industrial, and agricultural customers in the state. Oregon's propane industry provides good-paying jobs and generates more than \$441 million in economic activity annually.¹ The state is home to a robust market, with more than 118,000 retail accounts and 98 million gallons of fuel sold annually.² As energy providers, propane marketers are directly affected by numerous components of 2024 rulemaking.

In advance of the June 25 CPP Advisory Committee meeting, we would like the Committee and DEQ to fully consider and incorporate the below four requests into the draft CPP rule that is currently being developed.

I. Additional Free Allocation Allowances.

PPGA respectively requests additional free allocation of allowances to the propane sector.

- There are no abatement options in the propane sector. It follows that the only way to reduce emissions is to sell less propane (i.e., the carbon price amounts to a "volume reduction program" for the propane sector). Reducing emissions by putting an entire sector out of business is not a compelling or sustainable way to implement a carbon price.
- Additional free allowances would dampen the economic impact of the carbon price in the short-run, while still providing a longer-term incentive for the propane sector to create ways to abate emissions by means (i.e., technology, processes, alternatives) other than shrinking the sale of propane.
- Additional free allocation to the propane sector would increase rural resilience. Residential users of propane tend to be located in rural and low-income areas as compared to residential users of electricity and/or natural gas. Therefore, additional allocations to the propane sector would bolster rural resilience and deliver progressive outcomes (i.e., lower-income residents could either be made better off or do at least as well as higher-income residents with respect to heating their homes).

¹ *Propane's Impact on Economy: 2021 Oregon*, National Propane Gas Association, (2024), https://www.npga.org/wp-content/uploads/2024/05/Oregon_2024.pdf

² *Id.*

- Rural communities are defined in the CPP as an environmental justice community. We are concerned there are not clear cost containment and reliability assurance measures needed to protect customers. Allocation of propane specific allowances used for residential customers would protect customers who may be negatively impacted with no alternative.

II. Expansion of Carbon Offsets.

We support the use and expansion of carbon offsets to lower compliance costs and support tribes.

- Artificially increasing the cost of propane will incentivize residents to instead burn firewood. This will lead to further household exposure to particulate matter and exacerbate local air quality, thereby worsening public health. Therefore, we support the use and expansion of carbon offsets to lower compliance costs while still delivering emissions reductions.
- Offsets and similar funding mechanisms support tribes, who disproportionality depend on propane for primary space heating needs, by investing in nature-based solutions.

III. Opt-in Provision.

We request the ability for propane fuel suppliers to “opt-in” to Oregon’s cap-and-reduce program, and be given the option to voluntarily participate despite not meeting coverage requirements.

- This will allow small and/or uncovered suppliers to join the program early rather than face continued regulatory uncertainty.
 - This would be decided individually by each propane company.

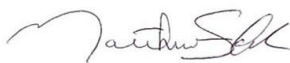
IV. Addition of Consignment Auction.

We request the addition of a consignment auction to increase price discovery and market liquidity.

- The cap-and-reduce program only has 18 participants that would participate in the carbon market. As such, the program is susceptible to high or inaccurate and volatile swings in allowance prices. A report authored for Oregon by several economists notes that: “volatile prices or prices that are far below or above anticipated levels can undermine confidence in the market.” ([Burtraw, Morgenstern, Keyes, and Munnings, 2019](#)).
- A consignment auction is an administratively-efficient and revenue-neutral way to increase price discovery and market liquidity, which could help this small market have robust trading activity.
- A number of academics have recommended the use of consignment auctions in general ([Burtraw and McCormack, 2017](#)) or in application to Colorado’s carbon price or California’s low-carbon fuel-standard ([Wang, Pizer, and Munnings, 2022](#)).

The inclusion of these four provisions will ensure the propane industry continues to do its part to reduce emissions, while ensuring a stable, well-functioning, and robust carbon marketplace is established. Thank you for the opportunity to provide input, and we look forward to working with DEQ towards these goals.

Sincerely,



Matthew Solak
Executive Director
Pacific Propane Gas Association



Jessica Spiegel

Vice President, Northwest Region

July 10, 2024

Sent via upload: Nicole.SINGH@deq.oregon.gov

Oregon Department of Environment Quality
Office of GHG Program
Climate Protection Program 2024 Rulemaking

Re: Oregon Climate Protection Program (CPP), RAC #3

Dear Nicole Singh,

Western States Petroleum Association (WSPA) is a non-profit trade association representing companies that create the energy we need today for the future of transportation. This includes renewable diesel, biofuels, innovative solar and sustainable energy projects, and carbon capture and sequestration. WSPA members' companies also produce petroleum products, which remain a vital energy source in Oregon and beyond.

WSPA members would first like to thank DEQ staff for their ongoing effort to work with all the stakeholders and for working to balance the diverse interests of the stakeholders in the meeting. We appreciate that staff listen to all program concerns and discuss possible options to improve the feasibility of the program design. WSPA members appreciate the opportunity to again provide feedback on the rulemaking process for the new Climate Protection Program (CPP) via the Rules Advisory Committee (RAC).

Compliance Period

WSPA supports the three-year compliance period and the idea of having some method of price discovery during that time, which may include turning in partial volumes of compliance instruments. However, WSPA does not support the discussion of modifying the compliance period to annually.

Community Climate Investments (CCIs)

WSPA supports the change to restart the program with a 15% limit for using CCIs in the 2025-2027 compliance period. This is pragmatic and consistent, allowing more opportunities for compliance.

WSPA remains concerned about the proposed \$129 CCI price in 2025. This remains a very high number for carbon pricing, and many projects support communities in non-urban areas and are not as expensive. For example, forestry projects on tribal lands in Oregon can and have been developed at rates that align with other carbon pricing.¹

One stakeholder in the meeting referenced a backstop if insufficient volumes of CCIs are available for program compliance. WSPA members strongly support this statement.

¹ <https://ww2.arb.ca.gov/our-work/programs/compliance-offset-program>

Even allowing a lower price tier for carbon reduction instruments after purchasing a specific volume of high-tiered CCIs would be an alternative. The point is that the volumes of CCIs that could be generated at lower prices have more value to OR than the current CCI.

As several stakeholders mentioned in this RAC meeting, using an intermediary to collect and distribute funds per DEQ's requirements would significantly streamline the process and provide opportunities for smoother funding of CCIs. It could even allow the collection of funds in advance that could be made immediately available for investments when approved, reducing the lag time between their approval and implementation, as well as decrease the administrative burden on the agency.

WSPA is also concerned with the proposal to prohibit the early purchase of CCIs for future use. Early adoption of CCIs can be a tool to help entities flexibly navigate a long-term reduction pathway. Moreover, by allowing for-profit organizations to participate in the CCI program, firms with financial resources and expertise can create projects that lower greenhouse gas emissions and support local communities. DEQ should at least consider projects that partner non-for-profit organizations with established for-profit companies to accelerate project deployment.

2025 Allocation of Additional Instruments

WSPA members appreciate that the draft rule provided for RAC #3 acknowledged the concern, at least as raised by fuel suppliers, regarding the program starting at a lower baseline goal point tied to the original program by recognizing the early efforts put into compliance. WSPA members support the language in the draft rule provided to generate additional instruments for distribution upon restarting the program to achieve this aim. WSPA appreciates this consideration as it is fair to cover entities implementing activities to comply with the short—and long-term program.

There was some discussion – perhaps confusion – regarding who would be eligible for the allocation of additional instruments in 2025. Given the fundamental intent of this provision, it is logical that this distribution be provided to those who were under the previous program rules; for 2022-2023, this included local distribution companies (LDCs) and non-LDC fuel suppliers with emissions that were above 200 kt/yr for an annual period between 2018-2022, inclusive. The current draft rule language that indicates “*ODEQ will total the 2022, 2023 and 2024 emissions for covered fuel suppliers with covered emissions greater than or equal to 200,000 mt CO_{2e}*” seems consistent.

The discussion in the RAC meeting suggested that smaller fuel suppliers were also intended to be included in this distribution. Such a suggestion seems incongruous to the intent of this distribution.

Inclusion of Emissions Intensive Trade Exposed industries EITEs

The DEQ decision to include EITEs is a critical feature to get right in the restarted CPP. The impact of including EITEs in the “fuel supplier” grouping on the compliance instruments wasn't discussed in detail. WSPA members would like to ensure that incorporating EITEs into the program does not affect how compliance instruments are distributed to the transportation fuel supply sector throughout the program.

EITEs can and should be incorporated without creating an additional burden on the fuel supply sector by decreasing the available amount of compliance instruments or by increasing the effective rate of decline of the program cap. Our members feel confident that the rule can be developed using a methodology that ensures this.

Our understanding from the meeting was as follows:

1. Establish revised cap amount by year by increasing the cap corresponding to EITE's average emissions from baseline years (I think DEQ mentioned 2017-19)
2. Allocate fewer compliance instruments to EITEs first based on the allocation schedule
3. Allocation of a percentage of remaining instruments to LDCs (~25% in total)
4. Add diversion to compliance instrument to reserve, as needed
5. Allocate remaining compliance instruments to non-LDC fuel suppliers

Inclusion of EITEs under the restarted program will be considered successful if the quantity of instruments at the initiation of step 3 equates to the values in Table 2 of the original CPP when issued in 2021. In that case, an additional burden on non-LDC fuel supplier will be avoided. WSPA would be happy to work with ODEQ staff to validate the outcome of language that addresses these critical considerations.

Fee Discussion

WSPA appreciated that DEQ reviewed how the fee structure was set up to align with the program's staffing needed to accommodate the CCI evaluation.

Fiscal Impact Statement

WSPA remains concerned that the original rule was not adequately assessed when the EQC changed it from an 80% reduction to a 90% reduction late in the rule development process. Analysis at that time suggested an 80% reduction would be challenging; reducing residual emissions in half, with no assessment of this impact, is reckless. The stakes are now higher with the inclusion of EITEs into the program, and a proper evaluation of the economic impact on Oregon citizens and businesses must be made.

EJ Statement

During RAC #3, comments were made that were inflammatory and disparaging towards the business committee and specific businesses. WSPA members understand that legitimate policy differences may occur among stakeholders. However, we request that in the future, the facilitator stop inflammatory and disparaging comments about other stakeholders during RAC meetings to maintain the decorum of the RAC process.

To that end, WSPA recommends that only statements included in the EJ Statement be within the scope of the rulemaking and state jurisdiction. In addition, any inflammatory comments by the agency implying intent to harm stakeholders or outright accusations about stakeholders seem incongruent with working together. WSPA recommends that they not be included in the EJ Statement made by a state agency. WSPA also requests that any comments include peer-reviewed citations.

Conclusion

Thank you for the consideration of these comments. If you have any questions or comments about the information presented in this letter, please do not hesitate to contact me via e-mail at jspiegel@wspa.org or by phone at (360) 918-2178.

Sincerely,



Jessica Spiegel
Vice President, Northwest Region



1. It is recommended that DEQ earmark some portion of CCIs specifically for federally recognized tribes in Oregon. That amount could be determined based on levels of available funding on a per compliance period basis. Such functionality would be similar to that of the WA CCA.
2. It is recommended that DEQ take into consideration quantified EITE emissions intensity per unit of specific product. This could be an important industry-wide metric for assessing the relative emissions intensity for a specific product for any number of manufacturers located in Oregon or elsewhere. This would help identify which EITE's are implementing GHG reducing measures versus those that aren't, and potential thresholds that if crossed by the CPP may result in "leakage".
3. Many RAC members expressed concern with CCI instrument pricing which could disincentive the use of CCIs. It is recommended that DEQ consider options and flexibility mechanisms to incentivize the use of CCIs. For example, a covered fuel supplier that is a local distribution company (LDC) may be incentivized to invest in CCIs to a greater extent if it were allowed to direct CCI funds towards qualified projects within their designated service areas that had demonstrable carbon reduction outcomes. The LDC could also be allowed to support CCI funded projects, at the recipient community's request, with technical staff time and have their reasonable internally accrued expenses for doing so counted towards their CCI investment. With this approach, the community project would benefit from additional technical support provided by the covered fuel supplier and the covered fuel supplier would not be a subcontractor to the CCI entity.
4. It is recommended that DEQ reconsider eligible projects and activities funded by CCIs. In some cases, a forest carbon offset project, for example, might be the most viable activity that a community can undertake. It would help if CCIs could, at least in part, help cover a portion of project development costs for activities such as these.
5. The State of Washington is making progress towards linking the WA CCA carbon market with the California (CA) and Quebec (QB) carbon markets which were linked in 2014. It is recommended that DEQ consider structuring the CPP in a way such that linkage with the WA, CA, and QB carbon market be possible. Attached is an analysis report from WA Ecology with additional information for DEQ's consideration.



CREATING GOOD JOBS, A CLEAN ENVIRONMENT, AND A FAIR AND THRIVING ECONOMY

Oregon Department of Environmental Quality
Office of Greenhouse Gas Emissions

July 17, 2024

RE: Climate Protection Program 2024 Rulemaking - RAC #3

Dear DEQ Office of Greenhouse Gas Emissions:

BlueGreen Alliance works with labor and environmental organizations to address our environmental challenges while creating good quality jobs. BlueGreen Alliance is guided by the principle that we can no longer choose between good jobs and a clean and safe environment—that the actions we take to create quality jobs and to protect working people and the environment must go hand-in-hand, and that together, we will build a clean, thriving, and fair economy.

BlueGreen Alliance has worked with our labor, environmental, and environmental justice partners to aggregate and synthesize comments for RAC #3 with a specific focus on worker and worker protections. Our overall comments reflect three general themes:

- 1) Protect impacted workers, community–environmental justice communities– and the environment
- 2) Promote administrative/agency capacity and ensure responsible stewardship, oversight of the CPP program and CCI investments
- 3) Promote good quality union job creation and apprenticeship training for diverse workers and workers in the energy transition

The recommendations below aim to maximize co-benefits from the Climate Protection Program for workers and the climate and have a dual benefit of positioning industry and climate investments to leverage federal investments that have requirements¹ (apprenticeship and prevailing wage) and preferences for labor standards and community benefits from grants² and loans³ (apprenticeship, prevailing wage, DEI, community benefit agreements and project labor agreements)..

¹ See Prevailing Wage and Apprenticeship Requirements retrieved from from IRS website: <https://www.irs.gov/credits-deductions/prevailing-wage-and-apprenticeship-requirements>

² See About Community Benefit Plans retrieved from Department of Energy website: <https://www.energy.gov/infrastructure/about-community-benefits-plans>

³ See Community Jobs and Justice from Department of Energy's Loan Program Office website: <https://www.energy.gov/lpo/community-jobs-and-justice>



CREATING GOOD JOBS, A CLEAN ENVIRONMENT, AND A FAIR AND THRIVING ECONOMY

Additionally, the comments build upon the [Just and Equitable Transition State Policy Framework](#) (See attachment) developed between the United States Climate Alliance (USCA)-- a bipartisan coalition of 24 Governors securing America's Net Zero by advancing state-led, high impact climate action-- and the BlueGreen Alliance. The toolkit is built on four guiding principles:

- Transition to a clean and equitable economy;
- Enable and elevate worker and community voices through stakeholder engagement and collaborative planning processes;
- Ensure an equitable, inclusive, and sustainable workforce, including access to high-quality jobs and support for impacted workers; and
- Achieve community health, longevity, and resilience.

A key premise in this comment that we want to be clear: Workers have a role in reducing emissions in a market-driven program such as the Climate Protection Program:

- Labor/workers are inherently part of the market
- **Workers are just as important as the deployment of the technology (or other strategies) to reduce greenhouse gas emissions.** Workforce is key to the installation, operation, and maintenance of deployed technology and will lead implementing greenhouse gas reduction strategies
- **Workforce training and the availability of a skilled and trained workforce is an important strategy to reduce greenhouse gas emissions** as it has a direct correlation to quality installation which in turns has a direct correlation achieve projected greenhouse gas reduction/savings. Furthermore, lack of available skilled workers with the skill sets to install, operate, and maintain critical technology or implementing greenhouse gas reduction strategies create clear challenges to CPP as does the market availability of key technology
- In short, entities or facilities covered by CPP are not fully-autonomous, workers are part of the productivity and efficiency of any worksite

Below are the suggested recommendations for DEQ's Climate Protection Program:

1) We support a program with a declining cap and the creation of the Covered Energy Intensive Trade Exposed (EITE) Status for stationary sources to prevent leakages for the purposes to protect union job losses.

2) Further, we believe EITE status is a public benefit to prevent leakages with the value of protecting jobs. In that respect, we believe entities should make additional commitments



CREATING GOOD JOBS, A CLEAN ENVIRONMENT, AND A FAIR AND THRIVING ECONOMY

to Oregon workers to qualify for EITE status. We encourage DEQ to consider the following commitments for an entity to qualify for an EITE status:

1. Maintaining and creating good quality jobs with living wages and employer paid family health and retirement and sign a Labor Peace Agreement⁴
2. Maintain good standing with state and federal environmental, wage and hour, and OSHA laws duration of EITE status, and commit to disclosure of violations and complaints.
3. Alert community, workforce, local government, DEQ, BOLI, Employment Department of possible closures, with 2 year notice and reason for closures. Additionally, entity shall meet quarterly with Labor and management to review staffing and maintenance needs to ensure worker-employer harmony before planned closure.
4. Agreement for workers and local government in the event of closure, that includes first right to purchase or form a cooperative for the workforce (ensures, checks and balances from the state)
5. Require each facility to have in place a complete plan for decommissioning and site/ clean-up to ensure comprehensive and safe clean-up at the time of facility closure or conversion to new use — (add language requiring community engagement in the process)
6. Agree to a Economic-Energy transition (or Community Resilience Plan) plan, co-created Community resilience Board (Community, labor, Tribal, local government; at least one seat each party business and education too?) to support energy and economic resilience and growth for the facility.
7. Agree to creation of a Workforce Transition Plan, collaboratively developed with impacted labor representatives, to be completed within 2 years of applying for EITE status. Workforce Transition Plan overseen by DEQ, BOLI, and relevant agencies, includes:
8. Number/classification of employees impacted, including:
 - a. Employment will end without being offered other employment by the company
 - b. The workers will retire as planned, or be offered early retirement
 - c. The workers will be retained in their current positions
 - d. The workers will be retrained to continue to work for the company in a new job classification on site
 - e. The workers will be retained by being transferred to other facilities within the company
9. A program to support transfer of employees to other employer locations and financial support
10. Identification of number and type of employees needed to safely close/convert facility, and financial incentives to keep employees on through closure

⁴ ^{xix} U.S. Chamber of Commerce, Labor Peace Agreements, 2016. <https://www.uschamber.com/assets/archived/images/documents/files/laborpeaceagreements.pdf>



CREATING GOOD JOBS, A CLEAN ENVIRONMENT, AND A FAIR AND THRIVING ECONOMY

11. A collaborative Worker Transition Assistance Program, funded by the employer, between the employer, labor representatives and case management/transition navigator organization(s) identified by the labor representatives to provide workers with job search support, access to benefits, access to mental health and financial counseling, and additional resources
12. Create a Climate-Emissions Oversight committee composed of community, labor, DEQ, utilities, and subject matter experts to oversee and support implementation of EITE commitments

Case Study: Colorado Just Transition Program:

“The [Colorado Office of Just Transition](#) assists communities and workers transitioning away from the mining and burning of coal as an energy source. The dual goals are to: 1) assist communities in retaining and developing family-sustaining jobs, broadening their property tax base, and increasing economic diversity, and 2) help coal industry workers transition to new family-sustaining jobs, relocate, or retire, so as to maintain their economic security in the manner that best suits each individual and their family. The Office works with an [Advisory Committee](#) and is guided by an [Action Plan](#).”⁵

3) We encourage a consideration that violations to commitments could result in the loss of EITE status and/or clawback or nullification on an entities allowances during the duration of EITE status.

4) Encourage eligibility requirement that all BAER entities must sign a Good Neighbor Agreement⁶ or Community Benefit Agreement⁷ (including labor peace agreements) with Community, environmental, and labor with a commitment to reduce emissions and maintain good quality jobs.

⁵See the Office of Just Transition retrieved from <https://cdle.colorado.gov/the-office-of-just-transition#:~:text=The%20Colorado%20Office%20of%20Just,coal%20as%20an%20energy%20source>.

⁶ See “Evaluating the use of Good Neighbor Agreements for Environmental and Community Protection: Final Report” study by Douglas S. Kenney, Miriam Stohs, Jessica Chavez, Anne Fitzgerald, Teresa Erickson, and University of Colorado Boulder. Natural Resources Law Center retrieved from https://scholar.law.colorado.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1018&context=books_reports_studies

⁷ See Community Benefit Agreement Toolkit from Department of Energy retrieved from <https://www.energy.gov/justice/community-benefit-agreement-cba-toolkit>



CREATING GOOD JOBS, A CLEAN ENVIRONMENT, AND A FAIR AND THRIVING ECONOMY

4) Ensure all CCI Investments remain in Oregon to support local jobs and businesses

5) Ensure CCI program protect workers in the energy transition.

- Set aside 1.5% CCI each year, not to exceed \$40 million, for a Transition Worker Emergency Reserve Fund that releases funds for workers displaced, locked out of facilities, for retraining, wage supplementation, relocation, and extension of benefits.
- Set aside can also support workers impacted by climate change, such as the farmworker climate change fund
- Set aside can support academia to support research in partnership with labor, industry, and government on how to protect and support workers in the energy transition.
- We encourage a rulemaking that includes Bureau of Labor and Industries, and other public agencies to support this program
- Set aside can also support **High Road Training partnerships(workforce training)** between labor-community-and-employers to help support the clean energy transition for incumbent, EJ communities, or dislocated workers. Funds can be additionally used for workforce studies to support high road job creation in climate action.
- Program could live under nonprofit CCI Entity
- Note: Unused funds are released each year for CCI investment in climate action if a reserve is deemed unnecessary

6) Ensure CCI Investments go to support developing an inclusive and diverse workforce in high road jobs. Note: this recommendation is not a set aside of CCI, but rather responsible requirements for employers, contractors, and subcontractors to develop CCI projects. A skilled and trained workforce has proven to be a key for quality installation and ensure energy efficiency projects meet projected GHG reductions⁸.

Encourage inclusion of agencies such as BOLI in the rulemaking of CCI investments.

Recommendations on workforce provisions include:

- Required registered BOLI training agent⁹ (for building and construction projects)
- Ensure projects support a 15% apprenticeship goal, with a 15% workforce equity goal (*note: apprenticeship is self-funded by industry and by Oregon statute must be an Oregon resident, further localizing co-benefit*)
- Ensure jobs created pay living wage (whichever is higher that applies to the classified worker: prevailing wages, service contract act, MIT living wage calculator, or minimum wages set in collective bargaining agreement)

⁸ See "Workforce Issues and Energy Efficiency Programs" by UC Berkeley retrieved from <https://laborcenter.berkeley.edu/workforce-issues-and-energy-efficiency-programs-a-plan-for-californias-utilities/>

⁹ See Training Agent Information Sheet retrieved from <https://www.oregon.gov/boli/apprenticeship/Documents/TrainingAgentFAQ%202022.pdf>



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- Ensure workers are properly classified for the skills and work provided on the project. Misclassification of workers is a form of wage theft, a problem in the construction industry¹⁰.
- Provide employer paid health care and retirement benefits to make jobs inclusive for single parents. A recent study points to socioeconomic status and health care access as a leading social determinant in health and health equity¹¹
- Ensure businesses performing work has demonstrated history of compliance state and federal laws
- Require enforceable agreements with applicable community groups, such as Community Benefit Agreements, Project Labor Agreements, and/or Tribal Benefit Agreements. Agreements such as Project Labor Agreements ensure true oversight and accountability measures to achieve key workforce benefits and worksite protections¹².
- Allow covered entities to partner with community and labor in the design and build of a CCI project.

Case Study 1: Oregon Clean Energy Standard: Responsible Contractor Standards (HB 2021)

[See section 26 for the Responsible Contractor-labor standards](#) that set requirements for clean energy projects to include apprenticeship, workforce equity goals, prevailing wage, and family health and retirement benefits, including the use of project labor agreements.

Case Study 2: Federal Good Jobs Initiative and Principles

The U.S. Department of Labor is collaborating with agencies across the federal government to help ensure that climate investments create good-paying jobs from the Inflation Reduction Act (IRA). The Good Jobs Initiative is a Department of Labor led Initiative that provides critical information to workers, employers, and government agencies as they work to improve job quality and create access to good jobs free from discrimination and harassment for all working people (with emphasis on underserved communities, including BIPOC individuals, LGBTQ+)

¹⁰ See Oregon Center for Public Policy's 2017 report "Wage Theft Increases Poverty and Costs to the Public" retrieved from <https://www.ocpp.org/2017/02/13/fs20170213-wage-theft-poverty-public-costs/>

¹¹ See Kaiser Family Foundation's 2018 report "Beyond Health Care: The Role of Social Determinants in Promoting Health and Health Equity" retrieved from <https://www.kff.org/disparities-policy/issue-brief/beyond-health-care-the-role-of-social-determinants-in-promoting-health-and-health-equity/>

¹² See Cornell University ILR's 2011 report "Community Workforce Provisions in Project Labor Agreements: A Tool For Building the Middle Class Careers" retrieved from <https://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1063&context=reports>



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individuals, women, immigrants, veterans, individuals with disabilities, individuals in rural communities, individuals without a college degree, individuals with or recovering from a substance use disorder, justice-involved individuals, and opportunity youth).

[The Good Jobs Initiative](#) is embedded in competitive federal grants and loans with agencies such as Department of Energy (DOE), Environmental Protection Agency (EPA), Department of Transportation (DOT), and emphasizes eight [good jobs principles](#) such as (abbreviated version):

Recruitment and Hiring: Qualified applicants are actively recruited – especially those from underserved communities. Applicants are free from discrimination, including unequal treatment or application of selection criteria that are unrelated to job performance.

Benefits: Full-time and part-time workers are provided family-sustaining benefits that promote economic security and mobility. These include health insurance, a retirement plan, workers' compensation benefits, work-family benefits such as paid leave and caregiving supports.

Diversity, Equity, Inclusion, and Accessibility (DEIA): All workers have equal opportunity. Workers are respected, empowered, and treated fairly. DEIA is a core value and practiced norm in the workplace. Individuals from underserved communities do not face systemic barriers in the workplace.

Empowerment and Representation: Workers can form and join unions. Workers can engage in protected, concerted activity without fear of retaliation. Workers contribute to decisions about their work, how it is performed, and organizational direction.

Job Security and Working Conditions: Workers have a safe, healthy, and accessible workplace, built on input from workers and their representatives. Workers have job security without arbitrary or discriminatory discipline or dismissal. They have adequate hours and predictable schedules. The use of electronic monitoring, data, and algorithms is transparent, equitable, and carefully deployed with input from workers.

Organizational Culture: All workers belong, are valued, contribute meaningfully to the organization, and are engaged and respected especially by leadership.



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Pay: All workers are paid a stable and predictable living wage before overtime, tips, and commissions. Workers' pay is fair, transparent, and equitable. Workers' wages increase with increased skills and experience.

Skills and Career Advancement: Workers have equitable opportunities and tools to progress to future good jobs within their organizations or outside them. Workers have transparent promotion or advancement opportunities. Workers have access to quality employer- or labor-management-provided training and education.

Case Study 3: California's High Road Training Partnership Program

Excerpt from the H RTP website: The High Road Training Partnerships (H RTP) initiative started as a \$10M demonstration project designed to model partnership strategies for the state. Ranging from transportation to health care to hospitality, the H RTP model embodies the sector approach championed by the [California Workforce Development] Board — industry partnerships that deliver equity, sustainability, and job quality[...] The industry-based, worker-focused training partnerships build skills for California's High Road employers — firms that compete based on quality of product and service achieved through innovation and investment in human capital, and can thus generate family-supporting jobs where workers have agency and voice¹³.

7) Ensure the building of diverse infrastructure that supports an all-of-the-above strategy to support decarbonization efforts while supporting diverse job creation. For example:

- Support geothermal, district heating, and hvac retrofit improvements in municipal, universities, schools, hospitals in addition to residential and multifamily buildings
- Support investments in industrial symbiosis that promotes reuse, repurposing, and recycling of waste (ex. Heat, water, etc) and sharing of resources (water) in industrial processes, and Support investments in decarbonizing the gas system.
- Where appropriate, support the deployment of pump storage, small hydro (i.e-irrigation), and clean, waste, greywater, and rain water infrastructure, especially in rural and coastal communities. Though not historically seen as projects that reduce greenhouse gas reduction, the need for water infrastructure investment becomes urgent in a rapidly heating climate spurred by greenhouse gas emissions
- Support investments in wildfire response, related infrastructure, and wildfire mitigation
- Support investments in renewable hydrogen for industrial applications.

¹³ <https://cwdb.ca.gov/initiatives/high-road-training-partnerships/>



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- Ensure projects measurably reduce greenhouse gas emissions whether using actual carbon accounting or utilizing a Community Benefit Agreement that includes labor-community-subject matter experts tracking the projects full life-cycle benefits.
- Ensure that biogas projects with a community benefit agreement (that includes a Project Labor Agreement, built with labor) qualify as a CCI project.

8) Where possible support administrative capacity at DEQ to effectively administer and steward the Climate Protection Program and intended objectives.

9) Support responsible CCI entity requirements such as being a nonprofit organization, transparency in board representation, publicly posted audits, and with a demonstrated mission to support climate, environmental, economic and worker justice.

We thank Department of Environmental Quality for the opportunity to submit a comment on a critical program such as the Climate Protection Program

Respectfully,

Ranfis Giannettino Villatoro
Oregon Policy Manager
BlueGreen Alliance



A CRH COMPANY

STRONG FOUNDATIONS. STRONG FUTURE.

July 10, 2024

Ms. Nicole Singh (Nicole.Singh@deq.oregon.gov)
Oregon Department of Environmental Quality
700 NE Multnomah Street; Suite 600
Portland OR 97232-4100

Dear Ms. Singh:

Ash Grove Cement, a CRH company, appreciates the opportunity to comment on the Department of Environmental Quality's (DEQ) draft Climate Protection Program (CPP) rules presented to the Rulemaking Advisory Committee (RAC) on June 25, 2024. Ash Grove, and its European based parent, CRH, are committed to reducing greenhouse gas (GHG) emissions in a responsible manner that does not result in leakage. For example, CRH has publicly committed to reducing gross Scope 1 and Scope 2 GHG emissions by 33.5 percent per tonne of cementitious product by 2030 and has targeted becoming a net-zero business by 2050 globally. These goals demand bold action, but they also demand strategic action to ensure that actual reductions occur on a worldwide scale rather than local reductions that result in net increases internationally.

Ash Grove's Durkee plant is the only cement producer in Oregon. Cement, a key ingredient in concrete, contributes to lowering GHG emissions by supporting sustainable community development. No alternative building material currently available offers the flexibility and depth of benefits of concrete and Ash Grove is proud to be able to produce the material to serve local markets. Imports are available. However, due largely to the emissions associated with transportation to market from overseas producers, for every ton of cement used in Oregon and not produced at Durkee, imports can add up to 50 percent more CO₂ to the global environment. Therefore, maximizing local production is key to reducing the CO₂ intensity of cement used in Oregon.

Under the original CPP rules, the Durkee plant would have had its combustion and process emissions considered holistically under the Best Available Emissions Reduction ("BAER") program. The draft rules propose a very different program applicable to covered Emissions-Intensive and Trade Exposed (EITE) sources such as Ash Grove. We are concerned that aspects of the draft rules will negatively impact GHG emissions and contribute to leakage. This letter suggests changes to the draft rules prior to formal proposal so as to minimize these negative impacts while still advancing Oregon's climate change policies.

DIRECT 541-877-2615

PO Box 287
Durkee, OR 97905

ASHGROVE.COM

Retain BAER for sources such as Ash Grove with integrated process and combustion emissions

Unlike any other source in the state, Ash Grove cofires coal, natural gas and tires. These fuels are necessary to achieve the extremely high temperatures (~2500°F) needed for calcination; to date, production scale electric cement kiln technology does not exist. In addition to providing thermal energy, the solid fuels also contribute chemical characteristics to the product. Combustion of this mix of fuels is responsible for approximately 1/3rd of the direct GHG emissions from the cement manufacturing process. The other 2/3rds comes from the calcination process itself which drives CO₂ off of CaCO₃ to create CaO.

Because the combustion and calcination processes are inextricably linked at a cement plant, it is impossible to consider them separately. DEQ previously recognized the importance of addressing process emissions under the BAER program and the draft rules continue to reflect this valid conclusion. However, it is equally important for a facility such as the Durkee plant that combustion emissions also be addressed through the BAER program as the two emissions pathways are inextricably linked. Any action taken to address the process emissions has the potential to impact the combustion emissions and vice versa. The only practical way to address GHG emissions from the cement process is to jointly consider combustion and process emissions through the BAER process.

If BAER does not cover Ash Grove's combustion emissions, make solid fuels subject to the cap

As explained above, Ash Grove feels strongly that combustion and process emissions should be addressed together through the BAER process. However, if DEQ chooses to regulate combustion emissions under the cap, it is critical that both solid and gaseous fuels be under the cap. Otherwise, there is the potential for the policies driven by the cap to be at odds with the policies driven by BAER. For example, BAER could force decreased solid fuel use at the same time that the cap is forcing decreased natural gas use, leaving the Durkee plant without a viable fuel source. However they are regulated, the fuels used in the cement manufacturing process must be regulated together. Therefore, Ash Grove believes that it is important that if Durkee's natural gas combustion emissions are under the cap, the solid fuel emissions likewise be under the cap.

If Ash Grove's combustion emissions are subject to cap, enable the ability to use a baseline period other than 2017-2019

Again, Ash Grove feels strongly that combustion and process emissions should be addressed together through the BAER process. However, if DEQ chooses to regulate combustion emissions under the cap, it is important that covered EITE sources be able to adjust their baseline period. Ash Grove supports the use of the average emissions during any three consecutive year period between 2017-2023 (inclusive). Such an approach avoids an EITE source from being penalized for having grown production since 2019. Absent such a change, EITE sources could face a significant penalty starting in the first compliance period.

EITE program must include upward adjustment of allocated compliance instruments if reductions are shown to be technically or economically infeasible (e.g., WAC 173-446-220(2)(d)(ii))

We believe that Oregon can learn important lessons from the Washington Climate Commitment Act (CCA) program given that it has already entered the implementation phase and the regulations were developed after extensive consideration at both the legislative and administrative levels. One critical aspect of the Washington CCA program is the reality that if an EITE source has done everything reasonably possible to reduce its direct CO₂ emissions, it should be able to opt out of further cap reductions until such time new solutions become available. Absent such a provision, commodity businesses (which most EITEs are) can no longer compete and must move out of state to remain in business. Such leakage is at odds with the goals of the CPP. Washington addresses this reality by including a backstop provision in WAC 370-446-220(2)(d)(ii) that empowers the Department of Ecology to make an upward adjustment in the reduction schedule for an EITE facility that demonstrates that further reductions in carbon intensity or mass emissions are not technically or economically feasible. We strongly urge DEQ to include an equivalent provision in the CPP regulations so as to avoid leakage and the loss of jobs and community in Oregon.

Thank you for considering these comments. If you have any questions regarding these suggestions, please do not hesitate to reach out to me.

Sincerely,


Phillip Teinze
Plant Manager

cc: Rob Hynes
Scott Nielson



Growth Energy™
Expanding America's Bioeconomy

July 10th, 2024

Leah Feldon
Director
Oregon Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland, Oregon 97232

Re: Climate Protection Program 2024 Rulemaking

Director Feldon:

Thank you for the opportunity to comment on the 2024 rulemaking for Oregon's Climate Protection Program (CPP). Growth Energy is the world's largest association of biofuel producers, representing 97 U.S. plants that produce 9.5 billion gallons of renewable fuel annually; 120 businesses associated with the production process; and tens of thousands of biofuel supporters around the country. Together, we are working to bring better and more affordable choices at the fuel pump to consumers, improve air quality, and protect the environment for future generations. We remain committed to helping our country diversify its energy portfolio to grow more green energy jobs, decarbonize the nation's energy mix, sustain family farms, and drive down the costs of transportation fuels for consumers.

We appreciate the Department of Environmental Quality's (DEQ) efforts to reduce greenhouse gas (GHG) emissions in the state. Our industry represents the largest volume of accessible, low-carbon biofuels meant to achieve the emissions reduction objectives of the CPP.

Growth Energy appreciates DEQ's recognition of the important role that bioethanol plays in reducing GHGs in the state's Clean Fuel Program. As such, we applaud DEQ for maintaining the appropriate exemption for biofuel in the CPP's compliance mechanisms. Additionally, we are encouraged by language in the April 2 Rulemaking Advisory Committee meeting presentation to use CPP compliance to incentivize a shift to biofuels.¹

We applaud Oregon for clarifying the sale of E15, gasoline containing up to fifteen percent bioethanol, in 2021.² We encourage the state to adopt policies that encourage the expanded use of E15 as well as higher blends such as E85. More than 96% of all vehicles on the road today can take advantage of E15, which if replaced E10 statewide, would result in more than 190,000 tons

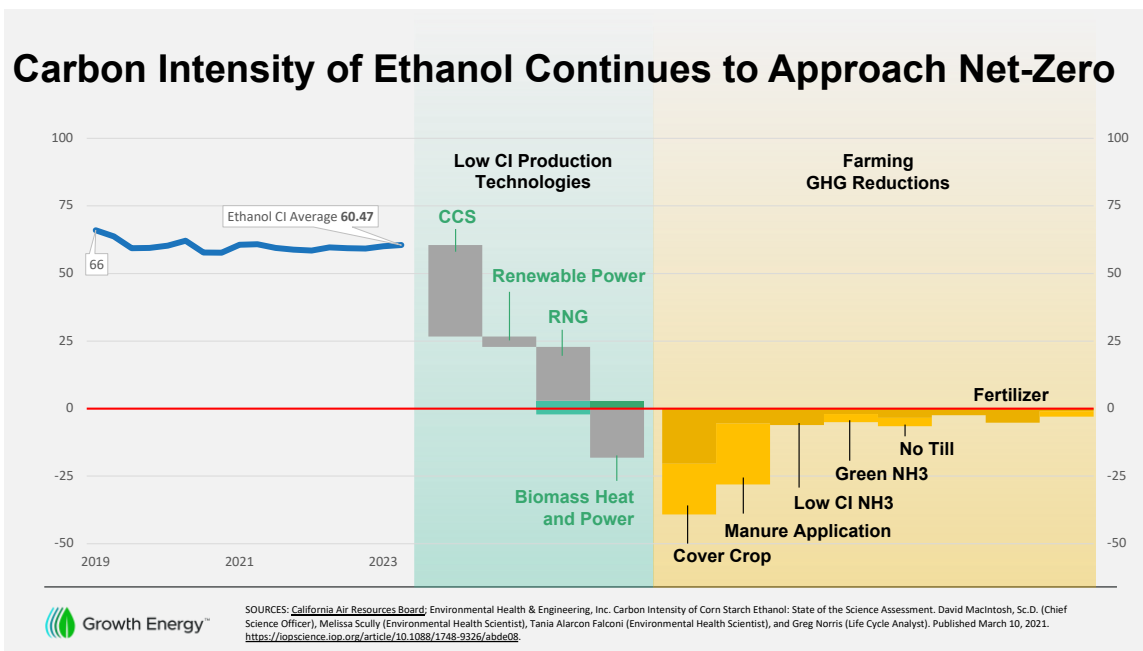
¹ <https://ormswd2.synergydcs.com/HPRMWebDrawer/Record/6644612/File/document>

² <https://growthenergy.org/2021/12/02/oregon-finalizes-e15-rule-to-take-effect-in-january/>

in GHG reductions.³ This is the equivalent of removing more than 41,000 vehicles off Oregon’s roads without impacting a single driver.

Additionally, E85 is currently available at only five sites in the state⁴. With an existing fleet of more than 186,000 Flex Fuel vehicles (FFVs)⁵, Oregon can utilize E85, which will promote even greater reductions in GHG emissions in addition to reductions in air toxics. We encourage Oregon to incentivize the use of FFVs and invest in infrastructure expanding access to E85 in the state. Doing so would achieve multiple goals: improve air quality and GHG emissions, reduce the state’s dependence on fossil fuels, and provide consumers with an affordable choice to power their vehicles.

As noted in the June 25 Rulemaking Advisory Committee meeting presentation, and in the meeting’s Draft Fiscal Impact Statement, Fee Analysis, Racial Equity, and Environmental Justice document⁶, analysis received by DEQ during the 2021 CPP rulemaking reported the CPP could add \$0.10 to \$0.36 per gallon to the cost of motor gasoline, between 2025 and 2050.” Expanded deployment and use of E15 can help negate any potential cost increases felt by Oregonians. In an analysis of E15 prices during the summer of 2023, we determined the average savings for consumers relative to E10 was \$0.15 per gallon, with some states seeing as much as a \$0.60 per gallon difference.⁷



³ <http://www.airimprovement.com/reports/national-e15-analysis-final.pdf>

⁴ <https://getbiofuel.com/fuelfinder/>

⁵ <https://afdc.energy.gov/vehicle-registration>

⁶ <https://ormswd2.synergydcs.com/HPRMWebDrawer/Record/6757487/File/document>

⁷ <https://growthenergy.org/2023/09/19/summer-savings-with-e15/>

The Draft Fiscal Impact Statement correctly notes “the Oregon Clean Fuels Program is a complementary policy that creates incentives to transition to lower-carbon fuels over time.”⁸ With expected federal incentives, appropriate carbon reduction crediting in the CFP, and bioethanol producers’ continuous efforts to improve carbon reduction technologies and processes, bioethanol can provide a valuable contribution to Oregon’s ambitious GHG reduction goals.

We would be happy to further discuss the role of higher bioethanol blends in further GHG reductions and the additional environmental justice benefits of higher bioethanol blends to disadvantaged communities. Thank you for the opportunity to comment and in advance for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chris Bliley". The signature is stylized and cursive.

Chris Bliley
Senior Vice President of Regulatory Affairs
Growth Energy

⁸ <https://ormswd2.synergydcs.com/HPRMWebDrawer/Record/6757487/File/document>



Association of Western Pulp and Paper Workers

Date: July 9, 2024

AWPPW Comments on the Preliminary Oregon DEQ CPP Rule

The Association of Western Pulp and Paper Workers (AWPPW) appreciates the opportunity to provide input on the preliminary Oregon DEQ Climate Protection Program (CPP) rule. We fully support the comments submitted by the Northwest Pulp & Paper Association (NWPPA) and wish to underscore several critical points raised in their submission, emphasizing the importance of job protection, economic stability, and the inclusion of worker voices in the rule-making process.

1. Baseline/Carbon Intensity Benchmark: We echo NWPPA's concerns about the lack of provisions for growth and production increases within Oregon's manufacturers. **The current mass-based GHG reduction requirement imposes undue constraints on our industry, which may drive production shifts and job losses.** We strongly advocate for the adoption of a carbon intensity benchmark, as implemented in jurisdictions such as Washington, California, and Quebec. This approach allows for growth while maintaining or reducing carbon intensity, providing the necessary flexibility for our industry to thrive without compromising environmental goals.

2. Second and Subsequent EITE Compliance Periods: The proposed steep reduction targets for the allocation of no-cost allowances are unsustainable for Oregon's manufacturing sector. The reduction schedule far exceeds that of Washington's Climate Commitment Act, placing Oregon at a competitive disadvantage. **We support NWPPA's recommendation to align Oregon's reduction targets with those of Washington to ensure a level playing field and avoid the risk of driving businesses out of the state.**

3. Cost of Community Climate Investments (CCIs): The projected costs of CCIs under the preliminary rule are significantly higher than those in neighboring states, further disadvantaging Oregon's EITE facilities. We concur with NWPPA that these costs should be indexed to the market rates in Washington and California to maintain competitiveness and avoid economic strain on our industry.

4. EITE Opt-in Provision: The current criteria for EITE protection exclude facilities with emissions just below the 25,000 mtCO₂e threshold, despite their significant trade exposure. This oversight could lead to increased production shifts and leakage. We support NWPPA's call for an opt-in provision, similar to Washington's, to ensure all trade-exposed facilities can benefit from necessary protections.

5. CPP Permit Certainty: We share NWPPA's concerns about the additional permitting requirements and associated fees. Without clear assurances from DEQ regarding program efficiency and fee stabilization, these new requirements could impose significant financial burdens on EITE facilities. We urge DEQ to reconsider these provisions and provide detailed plans for program implementation and funding that do not exacerbate the financial challenges faced by our industry.

6. Job Protection and Economic Stability: As a union dedicated to protecting the livelihoods of our members, their families, and the communities in which we operate, it is imperative to highlight the potential for facility closures stemming from well-intended but poorly crafted regulations. These regulations do not adequately account for the collateral damage and leakage of jobs under the guise of environmental stewardship. Instead, they merely shift climate culpability to jurisdictions with less stringent environmental standards. The recent announcement by McKinley Paper in Port Angeles and the resulting devastation and uncertainty faced by that community is a stark reminder of the real consequences of such policies. **We must ensure that the CPP rule includes stronger protections for EITEs, valuing the preservation of family-wage, union-backed jobs as equally important as protecting our environment.** By crafting regulations that consider both environmental impact and economic sustainability, we can prevent job losses and support Oregon's industrial sector while achieving our climate goals.

7. Inclusion of Worker Voices: It is crucial to recognize that the voices of the workers directly impacted by these proposed rules have not been adequately included in the Rulemaking Advisory Committee (RAC) discussions. **The AWPPW represents thousands of Oregonians whose lives and livelihoods are at the mercy of these regulations.** We urge the DEQ to ensure that the voices of workers and their families are considered in the final rule-making process. Including the perspectives of those who will be most affected by these rules is essential for creating balanced and effective policies.

Conclusion: AWPPW stands firmly with NWPPA in advocating for a balanced and equitable CPP rule that safeguards both environmental and economic interests. The proposed changes are crucial for ensuring the long-term viability of Oregon's pulp and paper sector while achieving the state's climate protection goals. **We urge DEQ to incorporate these recommendations into the final rule to foster a sustainable and competitive industrial landscape in Oregon.**

Thank you for considering our comments.

Sincerely,



Joshua Estes,

Policy Advisor and Lobbyist OR/WA

On behalf of the Association of Western Pulp and Paper Workers (AWPPW)



**Byrnes Oil Company Inc
P.O Box 700
Pendleton, Oregon 97801
541-276-3361**

I would like to thank DEQ for their due diligence on the very complex topic of keeping a level playing field within the Climate Protection Program's issuance of compliance instruments to liquid fuel suppliers. I want to strongly urge DEQ to consider incorporating ALL new entrants into the one-time distribution of compliance instruments as the new rule begins. The current rule has a one-time distribution for anyone who was a covered entity (200K MTCO₂ and above) in the old rule for their share of bio and renewables brought into the state. While I strongly agree with the distribution, I believe it would be unjust to only consider the original covered entities. We need to consider all new entrants of the new rule or else we are going to be putting those below the 200K MTCO₂, but above the 100K MTCO₂ at a disadvantage. Anyone in that window would immediately be at a disadvantage as we begin the new rule. This would not increase the Cap nor would it simply be a gift, as these entities would only get credit for their share of bio and renewable brought into the state which is what the rule is meant to encourage.

Liquid fuel suppliers did more than their fair share to reduce the GHG imported into Oregon and the smaller marketers lose out on capturing their fair share of the benefits if 100K and above do not join in on the distribution. Anyone receiving these credits has the opportunity to bank them to prevent a future price spike in fuel as the rule gets more aggressive. Anyone who doesn't receive them is immediately put at a disadvantage compared to the larger importers.

I want to highlight that these 100K and above marketers were, and are, doing the right thing by reducing GHGs in the state of Oregon which benefits the State, the communities, and the program, but simply because they are small, they are being overlooked to receive credit for the good they did. Should the new rule not include these entities, I fear small jobbers will eventually be squeezed out by the larger entities who have an extra bank of credits for doing the same thing that the smaller marketers were doing. I emphasize that ALL entrants are new entrants to the program at this point. So why should we treat some of them differently because they are small?

**Sincerely,
Mitch Byrnes
Vice President
Byrnes Oil Company Inc**



Oregon Environmental Quality Commission
700 NE Multnomah Street, Suite 600
Portland, Oregon 97232

Re: Oregon Climate Protection Program rulemaking

Dear Chair George and Environmental Quality Commission Members,

Columbia Corridor Association (CCA) represents 3500 businesses employing 70,000 people in the state's largest economic corridor. One of CCA's primary concerns is emissions reductions. We have been awarded seven EPA air quality grants, lobbied for renewable diesel, supported a state carbon tax, and are in the middle of a Department of Energy grant to develop an industrial symbiosis network. CCA is serious about having industrial businesses lead the way toward significant carbon reduction.

There are three ways to reduce carbon emissions: reduce our population, reduce our economy, or find technological solutions. The first two will work but will face public backlash. The third is risky but ultimately our only feasible option.

A few countries such as Denmark intertwine carbon reduction with economic development. Both are dependent on the other. While this may sound idealistic, the results prove that it works. U.S. carbon reduction pales in comparison.

We share the frustration DEQ must feel over the failure of a carbon tax, but resorting to expensive regulatory-dependent strategies that have not worked well in the past is probably not the best way forward. Instead, we urge DEQ to heed our climate emergency by convening an industry-led planning effort. We know that focusing on the industrial sector in a collaborative, data driven manner will promote innovation, spark additional economic benefits, and deliver wide ranging carbon emissions reductions. Ask businesses to develop strategies to meet our state carbon goals with verifiable outcomes and enable them along with energy providers to invest in these proven solutions. It has been done in other places; it can be done here. We don't have to reinvent the wheel, just make targeted investments.

The Columbia Corridor Association will support your effort to enlist the business community in creating a path to a carbon-free future. We don't have time to experiment with an approach that will damage our economy, anger voters and move some of the carbon emissions out of state. Alternatively, with support from DEQ, a business-led plan can be ready in 12 months.

Time is short. We must be bold.

Respectfully submitted,

A handwritten signature in black ink that reads 'Corky Collier'.

Corky Collier
Executive Director

June 25, 2024

DEQ Climate Protection Program
Rulemaking Advisory Committee Members
Cc: Karin Power and Nicole Singh
Delivered electronically

Dear DEQ and Rulemaking Advisory Committee members,

On behalf of our 61 member hospitals, the Hospital Association of Oregon would like to share its perspective on the proposed Climate Protection Program rules. Climate change is a public health issue, and Oregon hospitals share your commitment to reducing both emissions and the impacts of climate change on our communities. This letter is intended to begin a dialogue regarding the efforts Oregon's hospitals are making to reduce emissions and the challenges they are seeking to overcome in pursuit of those reductions.

Many Oregon hospitals are signatories to the HHS Health Sector Climate Pledge, which establishes a voluntary commitment by private health care organizations to reduce greenhouse gas emissions by 50% by 2030 and achieve net-zero greenhouse gas emissions by 2050. In line with this commitment, hospitals have made substantial investments, such as purchasing green electricity, subsidizing transit for employees, promoting walking and biking, constructing LEED-certified buildings, and improving the management of anesthesia gases.

While Oregon's hospitals continue these investments, they know the unique requirements of patient care facilities means that achieving net-zero emissions will rely on new technologies coming to market and hundreds of millions in additional investments in the coming decades. Our hope is the Climate Protection Program will recognize the unique constraints hospitals face, continue to facilitate their investments in emission reduction strategies, and avoid making achieving net-zero more difficult.

The U.S. Department of Health & Human Services mandates that hospitals have emergency preparedness plans to maintain critical services in the event of a loss of utility infrastructure support (energy utilities, water, etc.) for at least 96 hours (about 4 days). Hospitals meet this requirement for electrical power and heating with on-site stored fossil fuels (diesel fuel) to supply emergency generator systems and dual-fuel (natural gas and backup diesel fuel oil) steam boiler systems.

In addition, hospitals are required to have backup for their emergency heating and electrical power systems – in other words, a backup equal to the largest component in the system in case a component



of these systems goes out of service. The hospital industry's transition from fossil fuel will require a complete system change to electric heating systems to comply with federal mandates. To transition to electric energy for heating will require:

- Substantial upgrades in electrical distribution systems to serve the additional load, more than doubling the size of existing plants in many facilities.
- Significant increases of emergency power system capacities and reserve fuel storage to serve electrified heating systems.
- Significant upgrades to heat-producing equipment, distribution piping, and terminal heating equipment to replace existing steam-based heating systems, which typically operate at a higher temperature.

We are concerned that the cost of complying with the proposed Climate Protection Program rules will divert resources away from the kind of investments that Oregon hospitals need to make to reduce emissions that result from providing patient care. In attempting to reduce the state's contribution to human-caused climate change, these rules, as currently drafted, have the unintended consequence of making it more difficult for hospitals to provide quality, accessible care while using their resources to address climate change.

We appreciate your work on this issue and for considering the unique circumstances of hospitals compared to other emitters in the state. Our members were encouraged to see DEQ's contemplation of changes for energy intensive trade-exposed entities in Oregon. We encourage DEQ to work with the hospital association to identify adjustments to the rule that facilitate Oregon hospitals' common goal of reducing emissions while mitigating the potential negative impacts on their ability to deliver reliable, lifesaving care. We look forward to a continuing dialogue on these recommendations with DEQ and would request an opportunity to discuss our perspective in person.

Sincerely,



Sean Kolmer
Executive Vice President of External Affairs
Hospital Association of Oregon



4000 Kruse Way Place
Building 2, Suite 100
Lake Oswego, Oregon, 97035

Phone: 503.636.2204
Email: info@oregonhospitals.org
Web: oregonhospitals.org



Oregon Economic Development Association
2050 Beaver Creek Rd. Ste 101-349
Oregon City, OR 97045

June 1, 2024

To: Oregon Environmental Quality Commission
Attn: DEQ Director's Office
700 NE Multnomah Street, Suite 600
Portland, Oregon 97232

RE: Testimony on Oregon's Climate Protection Program

OEDA is a statewide non-profit organization dedicated to the service and support of Oregon's economic development practitioners on the front lines of diversifying and expanding Oregon's economy. Our association represents members and stakeholders from more than 180 public and private entities from economic development corporations, cities, counties, ports, utilities, tribes, and many other organizations interested in attracting and retaining investment here in Oregon. Our members are working to both retain and recruit companies to Oregon communities, a place where we currently have strong environmental and labor protections.

We appreciate the opportunity to provide our perspective on the potential Climate Protection Program (CPP) rulemaking. Our members are concerned about the cost impacts associated with compliance with the CPP. We are concerned those impacts will be felt economy-wide and could dramatically strain economic growth in Oregon, particularly for rural communities. Additionally, the Legislature just appropriated millions of dollars under the CHIPS Act to help ensure microchip manufacturing occurs here in Oregon. The projected compliance costs for procuring natural gas could make companies much less likely to maintain or open manufacturing plants in Oregon or open up scaled down versions.

As the Department's staff considers implementing a new version of the CPP, Oregon's climate policy must ensure that we're reducing net global emissions, not just increasing costs on Oregon consumers, businesses and our manufacturers. Many of our significant manufacturing sectors: tech, food processing, forest products are investing heavily in emissions reduction, but still depend on energy sources like natural gas. Most of our communities rely on their "traded sector" or manufacturing as the anchor of their local economies; the loss of those employers coupled with rapid energy cost increases for consumers could cripple all of our industries, particularly in our most vulnerable regions.

We urge the Department to protect our local jobs, employers and most importantly, ensure that Oregon's program reaches the ultimate goal: reducing net global carbon emissions. Environmental quality's own studies have recognized the risk of "leakage": the loss of in-state manufacturing and accompanying emissions out of state, where regulatory oversight isn't as strong and there is less access to renewable power. The risk of leakage includes but not limited to, transport customers, those already

regulated by DEQ, non-NG emissions companies and even Emissions Intensive Trade Exposed companies where offsets may be offered.

Emissions caps that aren't attainable or affordable for our workforce or for the manufacturers we partner with will cost jobs as well as increase net, global carbon emissions through leakage. We hope that any revised Climate Protection Program that The EQC adopts will include mechanisms to ensure our utilities and other regulated entities are subject to climate goals that are attainable and that they have access to compliance mechanism that help control costs and avoid outsourcing/increases in global carbon emissions.

With this in mind, we are requesting that DEQ complete robust modeling on the economic impact of the CPP and include the price of CCIs in the analysis. We are also asking DEQ to do a sector-by-sector and region-by-region analysis of the economic impact of the CPP. If this program ends up picking economic winners and losers, it is critical that policy makers have that information before this program becomes law.

Thank you,




Caitlyn Quwenikov
Executive Director, OEDA



Cindy Moore
OEDA Board President

July 12, 2024

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Nicole Singh
Department of Environmental Quality
700 NE Multnomah Street, Suite 600
Portland OR 97232


Dear Ms. Singh:

We appreciated the opportunity to speak with you last month about the Climate Protection Program (“CPP”) 2024 Rulemaking and the unique and difficult situation the current iteration of the draft rules put EVRAZ, North America’s (“EVRAZ”) in. As we noted in our discussion, greenhouse gas (“GHG”) emissions from our facility arise exclusively from natural gas combustion primarily at our slab reheat furnace. Reduction in combustion results in a proportional reduction in production of steel products. If EVRAZ does not fulfill a customer’s order or is less competitive because of impacts from CPP rules, then our competitor will fill that order emitting the GHGs that EVRAZ did not. The purpose of these rules is to reduce GHGs. The unintended consequence of the current iteration of the draft rule is to injure an Oregon manufacturer without a net reduction in GHGs. This letter proposes modifications to the current iteration of the draft CPP rules to address our concerns.

Overview of EVRAZ Portland

EVRAZ steel mill in Portland produces hot-rolled steel plate and coil products. EVRAZ’s production process begins by procuring steel slabs, which are then heated in a reheat furnace to around 2,150 degrees Fahrenheit. The red hot slabs are then rolled into steel plate or coil products. EVRAZ’s reheat furnace uses natural gas fuel and efficient burners to evenly heat slabs for rolling, and its design constitutes the best available control technology (“BACT”) for steel slab reheat furnaces. EVRAZ procures natural gas through a marketer and transported to EVRAZ through a direct connection to the Williams Pipeline.

We supply our products to customers locally, regionally, nationally, and internationally. Our customers use our products to develop goods for the medical, defense, clean energy, and construction industries. Specifically, our Portland mill produces structural components used for solar energy installations. The majority of our clients are located in the western U.S., which results in magnified economic impacts for the region. These economic benefits extend beyond the direct

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economic activity related to EVRAZ 's Portland mill. The indirect benefits include procuring materials needed to operate the facility from steel plates and manufacturing equipment to safety equipment and office supplies. Induced benefits come from the 400 workers we employ at wages well above the national average, and with many of our production and maintenance workers gaining full employment and benefits without a college degree. Our workers, along with the families they support, generate significant economic impacts from their spending in and around Portland. EVRAZ conducted an economic analysis in 2023 to study how its mill impacts the regional economy and concluded that from the 400 jobs at EVRAZ Portland, 1,370 jobs are created.

In addition to supporting the local and regional economy, EVRAZ is committed to reducing our greenhouse gas emissions resulting from steel production where possible. Because our reheat furnace already represents BACT, these efforts are focused on procurement. By emphasizing this objective with our procurement team, we have reduced emissions by procuring raw materials that are produced using BACT processes, including through efficient technologies like Electric Arc Furnaces (“EAFs”). We have significantly reduced the GHG emissions resulting from our supply chain by purchasing steel slabs produced using EAFs. EAFs emit far fewer GHG emissions than traditional Basic Oxygen Furnaces. From 2018 to 2021, EVRAZ has increased its procurement of steels slabs produced by EAFs from 3.2% to 74.2%. This results in an average annual reduction of 199,795 tons of CO₂e emissions!

EVRAZ remains committed to reducing our direct and indirect GHG emissions, and to that end we continue to ensure that the technology used in our reheat furnace represents BACT. Still, EVRAZ competes with steel products made in jurisdictions without substantial GHG emissions regulations. As a steel mill, EVRAZ is the quintessential Energy Intensive Trade Exposed (“EITE”) entity. Nonetheless, we support Oregon’s efforts to implement a GHG regulatory program, including DEQ’s efforts to implement GHG reductions in the state through its CPP 2024 Rulemaking.

Oregon’s Climate Protection Rules Need to Plug Leakage.

The first coordinated effort to implement a GHG emissions reduction and credit program began with Governor Brown’s 2018 Oregon Climate Agenda. That Agenda proposed a cap and trade program, which eventually lead to Senate Bill 1530 (2020) (“SB 1530”). Governor Brown’s Agenda and SB 1530 recognized the importance of providing allowances to EITE entities to prevent leakage and protect jobs in the manufacturing industry that are critical for our disadvantaged and underserved communities.

DEQ’s recent efforts have thankfully expressed a recognition of the importance of a balanced regulatory program that reduce GHG emissions while protecting EITE facilities. By including EITEs in the current iteration of the draft rules, DEQ acknowledges that forcing reductions in

GHG emissions by an Oregon business means nothing if that action results in an increase in GHG emissions by a competitor outside Oregon. So called *leakage*, where the effort to reduce GHG emissions here results in those GHG emissions simply being produced in an unregulated jurisdiction, hurts local businesses, families, and communities while generating illusory GHG reductions. Although preventing leakage is a cornerstone of the public policy informing the CPP, the current iteration of the draft rules does not provide appropriate protections and will result in considerable leakage, particularly from EVRAZ.

Our Unique Operations Results in the Draft Rules Leaving Us Trade Exposed.

As currently drafted, the CPP rules will either force EVRAZ to curtail operations to meet the *emissions reduction target* or pay substantial costs for credits. Yet, the customers that EVRAZ rejects (due to reduced production) and customers that choose a competitor unburdened with the costs of credits, will go to a competitor who will produce the products and generate the GHGs emissions. Because of that leakage problem, we wanted to communicate how the current rules will impact our Portland operations.

In part as a protection for EITEs, DEQ proposes to exempt *process* emissions from the CPP. The current iteration of the draft rules, exempts process emissions of GHGs from the regulatory program including carving process emissions out from the definition of “covered emission,” from the CPP permit provisions, and from the compliance instrument provisions. As a result, EITE entities whose GHG emissions result principally from process emissions will be protected in large part from leakage. Those entities who have GHG emissions principally from the use or combustion of natural gas, like EVRAZ, however, do not get any reprieve.

EVRAZ is unique amongst EITE entities in Oregon. As the only steel plate manufacturer,¹ with a direct-connect to the Williams natural gas transmission pipeline, all facility GHG emissions come from combustion of natural gas. These factors explain why we are negatively impacted by the current EITE provisions. As these draft rules stand, they will result in a substantial and unsustainable increase in our marginal costs that will not be borne by our competitors. This leakage is contrary to the policies underlying the CPP and we do not believe is the intent of the EITE provisions.

To Meet the Policy Goals and Plug Leakage From EVRAZ, Allow EITE Entities to Choose Best Available Emissions Reduction.

¹ Cascade Steel in McMinnville produces steel rebar and wire but not steel plate or coil products.

As explained previously, EVRAZ is uniquely situated as a direct-connect entity whose GHG emissions result from combustion. To ensure that the CPP does not result in leakage of GHG emissions that ultimately harms an Oregon manufacturer, we recommend modifying the stationary source provisions under OAR 340-273-0110(5) such that EVRAZ could opt into the Best Available Emissions Reduction (“BAER”) program. Such a proposal would eliminate the leakage problem and give DEQ the ability to review EVRAZ’s operations and the ability to gain additional GHG reductions.

While we believe BAER is a preferable alternative to the EITE program in the current iteration of the draft rules, the requirements for the BAER review (as it currently stands) do not provide great clarity as to what is required and expected of a BAER facility. To improve clarity, we suggest that DEQ set out the methods and criteria that DEQ will use to assess BAER. Alternatively, the BAER provisions could be modified such that its provisions resemble a BACT program, which is a known process for assessing control technologies.

Our recommendation for modifying the current iteration of the draft rules is to amend the stationary source provisions because it is simpler than making significant modifications to the EITE provisions in the draft rule, and also recognizes that the EITE provisions now appear intended to address EITE facilities with substantial GHG process emissions. As such, EVRAZ requests that DEQ amend the stationary source provisions under OAR 340-273-0110(5) so the stationary source provisions apply to EVRAZ instead of the EITE provisions. This would require only minor alterations to OAR 340-273-0110(5)(b)(B)(V), which currently reads:

“(B) Covered emissions do not include:

(V) For a covered stationary source that is also a covered EITE source covered emissions from a source described in section (6);”

Under the following modification, EVRAZ would be a stationary source instead of an EITE:

(B) Covered emissions do not include:

(V) For a covered stationary source that is also a covered EITE source covered emissions from a source described in section (6), **unless GHG emissions result from combustion of natural gas and the facility receives that natural gas through a direct connection to a natural gas pipeline;**

This would ensure that EVRAZ, while recognized as an EITE, would be regulated under the stationary source and BAER provisions versus the EITE provisions, which are currently written to address GHG process emissions. This would also necessitate amending the EITE covered emissions provisions to exclude EITEs covered by the above language. A new subsection could be added as OAR 340-273-0110(6)(b)(B)(vi) that reads: **Emissions from sources that have a direct**

connection to a natural gas pipeline and whose GHG emissions result from the combustion of natural gas.

As to the BAER Order provisions, we would request modifications to provide additional clarity regarding DEQ's requirements contained in a BAER order. Specifically, DEQ's considerations of economic impacts and the achievability of emissions controls do not provide any criteria to guide DEQ's decision-making or to set cost caps. The addition of the following language as OAR 340-273-0320(3) will strengthen the protections against leakage: *If after considering the economic impacts of a strategy, DEQ, through consultation with a stationary source covered by this provision, determines that a strategy will result in a reduction in production or an increase in the cost of produced goods, DEQ will not include such strategy in a BAER order.*

Finally, the BAER provisions could simply be amended such that they resemble or incorporate BACT. The addition of language to OAR 340-273-0320(1) to incorporate BACT would address this. Adding the following sentence would not significantly alter the BAER program, but would provide a known process and criteria for assessing compliance: *To the extent possible, a BAER order will seek to implement BACT for a given source in the applicable industrial category. If DEQ has already conducted a BACT analysis for the source, DEQ may accept the BACT analysis as BAER.*

The above amendments will help alleviate the potential for leakage as DEQ implements the CPP. EVRAZ remains committed to working with DEQ to implement a GHG emissions reduction program that reduces GHG emissions and does not simply shift those GHG emissions to competitors in other jurisdictions. Oregon businesses and families are too important to get this wrong. We appreciate the opportunity to submit our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Don Hunter".

Don Hunter
Senior Vice President General Manager

CC: Karin Power – Governor's Office
Colin McConnaha – DEQ
Sean Kitchel, Annie Stefanec, Debbie Silva – EVRAZ
Brien Flanagan, Conor Butkus – Schawbe



Oregon Department of Environmental Quality
Office of Greenhouse Gas Emissions

June 10, 2024

RE: Climate Protection Program 2024 - Rulemaking - RAC #3

Dear DEQ Office of Greenhouse Gas Emissions:

The undersigned community-based environmental justice organizations of Oregon Just Transition Alliance (OJTA) support the commitment of Governor Kotek and the Department of Environmental Quality to reinstate Oregon's Climate Protection Program (CPP) without delay. OJTA and its organizations are a movement of communities facing environmental racism, climate change, and economic exploitation by and for people on the frontlines of injustice and change. We unite organizations to move Oregon toward an economy rooted in our shared values, the principles of a Just Transition. We appreciate the opportunity to provide written comments for the Rulemaking Advisory Committee (RAC #3) we urge DEQ to consider our comments below.

The Just Transition Framework and the CPP

As environmental justice organizations, we view policy decisions through a vision of the equitable world we want to live in and work backward to create policy that will get us there. When we talk about environmental justice and a Just Transition, it means we move forward with strategies and solutions that democratize, decentralize, and diversify economic activity while we damper down consumption, and (re)distribute resources and power. Imagine a world where we shift the economy from dirty to clean energy, from funding highways to expanding public transit, from landfills to zero waste, from industrial food to food sovereignty, from gentrification to community land rights, and from rampant destructive development to ecosystem restoration.

With this said, the definition of environmental justice in the Climate Protection Program's rules must be strengthened to ensure that those hit first and worst by climate impacts are prioritized when it comes to Community Climate Investments. We are still concerned that the current environmental justice definition in the rules is too vague. As it stands, the definition leaves too much to interpret about communities in coastal and rural areas in Oregon. Rural and coastal communities do face environmental injustices through decreased accessibility to resources and the risk of the climate crisis through rising sea

levels or other environmental factors. However, some communities also have the economic status to mitigate climate risks, so the definition should account for these disparities.

Without strong policies that explicitly call out injustices, while uplifting, including, and providing space for community leadership of environmental justice communities, a Just Transition is not possible. The Climate Protection Program is only one part of the puzzle, but its breadth and historical significance warrant a commitment to a Just Transition of equal breadth and importance. We appreciate the inclusion of environmental justice organizations on the RAC and the following Equity Advisory Committee. However, the currently proposed rules do not center on the self-determination of communities feeling the impacts of global climate crises.

Some components of the current rules are directly in conflict with the principles of a Just Transition.

A just transition centers on community resilience and collaboration. It is not equitable for companies involved in the legal challenge of CPP 2022 to be rewarded while environmental justice communities continue to be ignored and receive no promised benefits.

Justice delayed is justice denied. As the current rules stand, regulated entities will get enough compliance instruments to trade amongst themselves for the first three compliance periods. The model shows that it will not be until halfway through the program that a CCI contribution will be made. This delay is unacceptable. If communities do not see CCI funds until the 2030s, then the racial equity goals of the Climate Protection Program will not be met. Many organizations, including our alliance members, won't be able to implement these projects if the program isn't reinstated.

We shouldn't have to keep repeating that future climate disasters won't affect everyone equally. In a true Just Transition, communities should receive investments before regulated entities must lower emissions, ensuring they are prepared for a changing energy landscape *before* disaster strikes.

Compliance Periods

The DEQ must reconsider the first compliance period to better make up for the years lost to the invalidation of the program. We urge DEQ to adopt a one-year compliance period for 2025. The DEQ must also reconsider adding compliance instruments for certain entities at the beginning of the program. The asymmetrical benefits that have come out of this second rulemaking undermine the principle of a Just Transition to shift power and

resources and create a pathway to community self-determination. If an industry legally challenges a program, it shouldn't gain flexibility without facing consequences for delaying the program. This lacks accountability that is central to an equity model. If there is no mitigation taken to equalize benefits to EJ communities, it is a very clear example of giving special treatment to one entity over another. This delay harms EJ communities and undermines the Racial Equity Impact Statement.

Community Climate Investment Entity (CCIE)

The DEQ must restore the requirement that the CCIE must be a non-profit organization. Nonprofit 501c(3) organizations that already have experience working with environmental justice communities should be the only consideration for administering these funds because they have the trust and relationship with EJ communities and work through a duty to mission. For-profit and government entities do not have the same "duty to mission" as a 501c3. Furthermore, tax rules associated with these different types of nonprofit organizations may vary thus possibly impacting the tax status of contributions and how the funds can be used or deployed. There are more effective ways to encourage nonprofit organizations to apply as the CCI entity. For example, reduce uncertainty for applicants through rule and program structure changes, providing support and information to better assess the uncertainty, or even some guaranteed funding.

Real-World Impact of the Climate Protection Program and CCIs

We have all crunched the numbers, but what is the impact of the Climate Protection Program on real Oregonians? To truly understand the effect of a program like this, it is important to consider how lives will be changed on a community and individual basis. We need the CPP for the well-being of Oregon environmental justice communities, especially for future generations. The CPP is an important opportunity to think critically about what we are leaving for future generations to inherit. The following are only some examples of what that impact may be.

Verde

Verde is a community-based organization whose mission is to build environmental wealth through organizing, advocacy, and social enterprise. Verde has been working to connect low income, Latinx, and BIPOC communities to resources to make their homes more energy efficient and prepared for extreme weather for decades.

Funding from the CCI program would immensely help our communities withstand the impacts of climate change. From home assessments to installations, Verde supports home energy-efficiency projects for low-income communities that could be expanded. One example is our community solar project, which increases climate resilience and decreases

utility bills for EJ communities with historically high bills. These savings are incredibly important because when families fall behind on their utility bills, they are faced with hard choices like turning on their AC during a heat wave or buying food for their family. Ensuring that folks can afford their utility bills can also better ensure housing stability. With CCI investments, Verde could reach even more families across Portland.

In a Just Transition, it is critical to provide training and mentorship for black, brown, and Indigenous residents, equipping them with the necessary skills, knowledge, and cultural sensitivity to thrive in job environments. With these funds, we could follow our aspirations of expanding our work into the green workforce sector.

The Lower Umatilla Basin

Oregon Rural Action has worked with the communities of the Lower Umatilla Basin for years to fight groundwater contamination and pollution from industrial agriculture. With each passing day, it becomes clearer that this is one of the most polluted places in Oregon. This area is smaller than the city of Houston, Texas, and yet it was home to about 43% of our entire state's greenhouse gas emissions from large industrial facilities in 2022. Four of Oregon's five top polluting facilities are concentrated in this same area, which is also home to an ongoing and decades-long groundwater contamination emergency while housing some of our state's most heat-vulnerable populations. And just this week, as triple-digit temperatures left Oregonians sweltering across the state, DEQ was forced to issue an air quality alert in northern Umatilla County due to smog.

It's no coincidence that one of the most polluted places in Oregon is also home to one of the most diverse communities, or that such a stark environmental injustice has taken hold in such a rural place. Sacrifice Zones like the Lower Umatilla Basin should not exist in Oregon, and yet they do. The families that call this place home are exposed to disproportionate and unsafe levels of pollution daily - Oregon can and must do better for its people. Reimplementing the CPP without delay is a fundamental step toward delivering the justice our communities need.

Parkrose and Argay Terrace

Neighbors for Clean Air is an organization that focuses on air quality issues in the Portland Area. Verde, Neighbors for Clean Air, and partner organizations have been supporting communities in the Parkrose and Argay Terrace neighborhoods to resist the development of a 244,000-square-foot freight warehouse in the Argay Terrace neighborhood of Northeast Portland. This poses a significant threat to public health and safety in a neighborhood where 48% of the population identify as people of color.

The proposed warehouse would be placed directly across the street from two of the six schools in the Parkrose school district and very close to 266 homes. Community members, especially students and the school district representatives, have repeatedly advocated for options that support climate resilience and education. A freight distribution center of this scale and location increases the burden on these already overburdened communities, increasing diesel pollution and exacerbating urban heat, which contributes to poor air quality. This community is at higher risk of suffering from increased rates of cancer, lung disease, asthma, and other serious health conditions. If the Climate Protection Program runs as it is supposed to, there would be hope for these community members to see a decrease in air pollution near their homes and schools in the coming decades. CCI funds could be used to support deep energy-efficiency retrofits in residences, decrease emissions in other sectors, and provide alternative sources of energy to create better conditions overall. But, if the CCI funds are not administered for several compliance periods as the current rules show, an entire generation of students could suffer before a change is made.

Unite Oregon

Unite Oregon is an organization led by people of color, immigrants, and refugees centering statewide work on economic, housing, health equity, climate, and environmental justice. Over the years Unite has advocated for underrepresented communities and worked on projects ranging from policy creation and community gardens to a listening tour across Oregon that showcased concrete actions we can take to support Black, Indigenous, People of Color and frontline communities.

Based on our listening tour and related local and statewide summits, we would use CCIs to further reduce environmental impacts to Indigenous and BIPOC communities by developing youth leadership as well as Indigenous connections to lands and water. We are also interested in developing water protection projects that will mitigate utility prices and extreme weather impacts on these communities. CCI funds would bolster this work and continue to unite Oregonians.

Klamath and Lake County

On the other side of the state, communities in Klamath and Lake County are already experiencing extreme weather in their high-desert environment, and their remote locations can create barriers to accessing medical support in these times. There has been some preparation by some organizations in the region, but the Climate Protection Program could provide invaluable help to these rural communities.

Klamath and Lake Community Action Services and Lake County Resources Initiative have been administering funds to help their communities with weatherization and energy bills. For the past few years, they have been strategizing on how to use upcoming IRA funds to ensure that rural communities are prepared for the next extreme weather event. If the new rules don't pose too much of a delay, CCI funds could be used to bolster these plans. While their leaders are gearing up to receive federal funds, the prompt administration of CCI funding could further ensure that they get the resources they need to ensure *every single one* of their community members can stay safe from extreme weather and wildfire smoke.

Oregon's farmworkers

As we have pointed out in previous comments, Oregon's farmworkers are especially at risk of climate impacts such as extremely hot temperatures and exposure to wildfire smoke. In 2021, [Sebastian Francisco Perez](#), a 38-year-old husband, brother, son, and farmworker lost his life from working during a heatwave. We must ensure this never happens again. According to a [University of Washington and Stanford University study](#), the number of days that exceed heat safety standards for U.S. agricultural workers will double by 2050, putting these communities even more at risk. Adopting CPP and implementing the program will help reduce greenhouse gas emissions that affect farmworkers because they contribute to making heat waves more extreme.

Energy Intensive Trade Exposed Entity (EITE) treatment

No matter how treatment of EITEs shake out under the cap, DEQ must maintain the integrity and stringency of the overall cap decline to ensure meaningful emission reductions under the program. There must also be measures taken to ensure that the public is adequately informed and engaged with the EITE process. Furthermore, there should be additional precautions to hold these companies accountable if they significantly violate existing requirements around workforce and environment.

Offsets

We are glad the DEQ is holding the line against offsets. Offsets will not meet the racial equity goals of the program or actual emissions reductions. We are also glad to hear that the DEQ is upholding a reasonable CCI price that will allow for the smooth running of the program. The costs of inaction far outweigh the costs of this program.

In closing

The Just Transition movement is happening all over the world. Oregon has the potential to be an example of good and just climate policy. Our organizations have been working on assisting a Just Transition to clean energy for years and will continue to do so. However,

our efforts to lift up our communities must be accompanied by strong support from our governmental agencies and partners.

We strongly urge the DEQ to prioritize the needs of environmental justice communities when considering any changes to the previously adopted rules and subsequent impacts that will compromise and severely delay critical investments in overburdened communities, perpetuating existing systemic injustices. The Climate Protection Program has the potential to create jobs, save money, improve public health, and boost Oregon's economy. It will empower our communities to lead the way to a cleaner, healthier, and more equitable future for all. We submit our comments for your consideration.

Sincerely,

Ana Molina
Advocacy and Systems Director
Oregon Just Transition Alliance

Ira Cuello-Martinez
Policy and Advocacy Director
PCUN, Oregon's Farmworker Union

Jess Grady-Benson
Organizing Director
Rogue Climate

Lisa Arkin
Executive Director
Beyond Toxics

Metzin Rodriguez
Climate & Environmental Justice
Policy Coordinator
Unite Oregon

Xitlali Torres
Air Quality and Climate Program
Coordinator
Verde

Kaleb Lay
Director of Policy and Research
Oregon Rural Action

Nakisha Nathan
Mary Peveto
Co-Directors
Neighbors for Clean Air

July 10, 2024

Oregon Department of Environmental Quality (ODEQ)
ATTN: Nicole Singh at nicole.singh@deq.state.or.us

RE: NWGA Comments on 2024 CPP RAC 3

Dear Ms. Singh:

The Northwest Gas Association (NWGA) represents the natural gas utilities and transmission pipelines serving warmth and comfort to over 800,000 households and 86,000 businesses, institutions, and industries in Oregon.

NWGA appreciates the opportunity to comment on the 2024 Climate Protection Program (CPP) rulemaking following the third and final rulemaking advisory committee (RAC) meeting. We continue to harbor serious reservations about the validity of the program. Whether ODEQ has the authority to promulgate this rule absent legislative authority remains an open question. That said, we offer the following substantive comments on the draft rule.

As mentioned in our public comments during the meeting, the staff deserves kudos for being accessible and for working to strike a balance where there was room for substantive discussion, especially relating to the treatment of energy intensive trade exposed industries (EITEs).

Emissions (Emissions or Energy?) Intensive Trade Exposed Companies: A Step in the Right Direction

As noted above, we appreciate that the draft rule reflects substantive changes in the treatment of EITEs by providing them with a differentiated regime. Entities that provide essential services such as hospitals, government buildings, schools and other educational institutions should receive similar consideration, including a more modest cap decline. In the interest of transparency, ODEQ should provide a list of EITEs and others being treated differently including the load serving entity (i.e. gas utility or federally regulated pipeline).

In addition, companies that do not meet the covered entity threshold and who purchase their own energy supplies (i.e. transport customers) should be afforded a pathway to identify and employ compliance management strategies that best meet their needs, as is done under Washington's Climate Commitment Act.

Cost Containment is Critical

The draft rule does not include cost controls or reliability assurance guardrails that ensure Oregon residents, businesses and institutions have access to and can afford the energy they need when they need it. The Oregon Public Utility Commission's (OPUC) representative said as much during the portion of the agenda set aside for Commission staff's observations regarding the draft rule. There is a precedent in Oregon's Clean Electricity Act, which includes reasonable cost containment and off-ramp provisions. That the draft rule does not contemplate such protections is a serious flaw.

Community Climate Investments (CCIs) Remain Problematic

Above all, CCIs must demonstrably reduce emissions on a one-for-one basis and the cost of a CCI should be grounded in actual carbon markets. For instance, a CCI could be indexed to the Western Climate Initiative carbon market price.

Constraining the field of eligible CCI entities restricts alternatives, increases the likelihood of delays and risks the ability of ODEQ to have CCIs available when required. Furthermore, covered entities should be allowed to partner with CCI program entities, including a separate CCI program for the natural gas utilities.

Limiting compliance to CCIs alone will drive the cost of compliance up and limits opportunities to actually achieve GHG emissions reductions. At the very least, the CPP should provide offsets and be generous in the number of offsets allowed for compliance.

Finally, there is an implied expectation that a secondary market for trading compliance instruments will organically develop. Whether and how a gas utility might access such a market for compliance purposes is difficult to assess and is made more uncertain by the regulatory risk associated with prudence reviews and determinations made by the Public Utility Commission.

Some covered parties may engage in a secondary market but gas utilities will start their compliance obligation at a deficit to the baseline. Coupled with the steep decline of the cap, the liquidity of the market for compliance instruments will be severely limited, while the compliance obligation of LDCs will continue to grow (due to the declining cap). The result will be serious economic disruptions for liquid fuel and natural gas consumers, an effect that will only be amplified by the exclusion of compliance instrument banking.

Economic Impact Assessment

The economic impact statement fails to capture the true economic impact of the program's implementation. The state should revisit the analysis to provide a more complete and accurate economy-wide impact assessment. For instance, compliance instruments and pathways should be modeled from best available data with sufficient time allocated for review of ODEQ's cost-impact analysis. For instance, the three-year compliance figures shared during the RAC meeting differed from the meeting materials provided in advance. A detailed explanation of the discrepancies should be provided prior to final rulemaking.

The small business impact modeling is also insufficient. Does DEQ intend to limit its small business impact analysis solely to regulated fuel suppliers, or do you intend to look at the broader economic impacts of utility pass-through costs on small business that are not regulated entities?

Finally, and something that is of critical importance to those interested in a prosperous Oregon, the proposed rule does not contemplate any economic growth since the original baseline, and does not accommodate any growth going forward. This flaw in the proposed rule is in direct conflict with policies like the CHIPS Act designed specifically to spur economic growth. While it may be difficult to resolve, it is critical to do so.

Thank you for the chance to comment on the draft rule. Please feel free to contact me if you wish to further discuss our comments.

Sincerely,



DAN KIRSCHNER
Chief Executive Officer



June 25, 2024

Chair George and Environmental Quality Commission Members,

My name is Jay Clark, and I am the Director of Government Relations for the Portland Metro Chamber. Thank you for allowing me to join you virtually today. The Portland Metro Chamber (The Chamber) is greater Portland's Chamber of Commerce and represents the largest, most diverse network of businesses in the region with over 2,300 members, 80% of which are small businesses defined as 10 employees or less.

I am here today to share the Chamber's concerns related to the proposed fees and regulations around Community Climate Investments (CCI) in the Climate Protection Program (CPP). First, please let us state, that as an organization we are in alignment with the goals of the program. The protection of our environment and reducing carbon emissions is extremely important. We have demonstrated this with our actions over the past year. Last year, we worked with the City of Portland to enact a phased in ban of diesel fuel within the City of Portland and this fall we will formally announce the launch of the Portland Clean Industry Hub in partnership with the City of Portland. This hub, which will be housed within the Chamber's Charitable Institute, we believe will be the first city-based business led industrial decarbonization program in the nation.

However, we have deep concerns with the potential economic impact the CCI and CPP will have on all ratepayers and employers at a time where we are still struggling to restore Portland's economic competitiveness.

The Chamber worked together with stakeholders from across the state earlier this year on the Governor's Revitalizing Downtown taskforce. One of the key policy decisions that sprung from that group was a three-year moratorium on ALL new taxes. Taxes are not simply items levied by the Legislature or voted on thru ballot measures; the monies spent on permits, regulations, fees, and the like are also included in this moratorium. The City of Portland, in recognition of the growing impact of rapidly rising taxes and fees, just a policy of requiring an economic impact analysis to be conducted and reported to council for any increase or newly proposed taxes or fees. While we understand, the final details of this program are still being ironed out, the as-is projected cost estimates are substantial enough to have a noticeable impact on business development for the region.

We are doing all that we can bring the Portland-Metro region back to the economic and reputational strength that it held before COVID, which is key to the future success of the state overall. However, we are currently losing businesses and population to other states, meaning we are already seeing "leakage" and the projected costs of the CPP as currently defined, will layer on additional costs, the exact opposite



of what we need for the revitalization of our state's largest city. Of further concern, is there has been no financial modeling to show that the purchase of CCIs by effected entities will result in verifiable carbon reductions, which is the intent of the program, or what this program will cost overall. So, businesses will be paying more, potentially substantially more, at a time when they are least able to, for no provable gain for the environment. Furthermore, with Multnomah County's highest marginal income tax rate in the nation, we have been losing population for the past three years, and the possibility of dramatic increases in utility bills will be another obstacle in making our region affordable for all citizens which will in turn, effect businesses ability to recruit talent.

Many of our members have concerns that the CPP is going to hurt economic development because of the massive increase in fuel and natural gas costs. Again, we are not asking the DEQ to abandon climate policy, but to work towards common sense, data driven policy that is mindful of affordability and will result in meaningful and verifiable emissions reduction. There are other economy wide, market based options, such as the Cap and Invest model that has been successful in California, and we ask that the Commission look to these models and work with energy providers and other covered entities during this rulemaking to create a program that addresses climate change in data driven and pragmatic manner, and does not create additional economic burdens for Oregon's fragile business community.

Thank you for your time and consideration.

Sincerely,

The Public Affairs Team of the Portland Metro Chamber



July 10, 2024

Dear Department of Environmental Quality,

We appreciate the opportunity to comment on the proposed CPP rules discussed in your June 25, 2024 RAC meeting.

We are extremely concerned that current rule proposals would significantly delay CCI investments for a decade or more. (Please see the attached illustration modeling our forecast.)

DEQ's Racial Equity Impact Statement relies heavily on the deployment of CCIs. If the two rules of concern to us—(1) the three-year compliance periods and (2) the distribution of an additional 2025 compliance instrument—are implemented, there may be no positive racial equity impact until 2036.

Put simply, further delays will perpetuate harm to environmental justice communities.

Impacted communities who have suffered from the racialized wealth gap and bear the brunt of climate disaster should not have to wait longer than necessary for programs that serve them directly. Extended timelines undermine DEQ's racial equity goals and exacerbate injustice.

In our original application, we identified 17 shovel-ready projects that could have been deployed rapidly to reduce carbon emissions and provide community co-benefits. More projects would have been identified had we started community engagement. These projects would now be delayed by as many as 12 years.

Further, some communities have expressed interest in using Community Climate Investments to leverage and secure federal Inflation Reduction Act funds for their projects. If they have to wait a decade, those federal dollars and programs will likely either have been spent or expired. That would represent a tremendous missed opportunity.

We understand the desire to reward those covered fuel suppliers who have been reducing their carbon emissions, but current proposed rules would do so at a tremendous cost: the perpetuation of harm to environmental justice communities.

The cascading impact of these choices would be felt far and wide. We urge DEQ to reaffirm its commitment to racial equity and its visionary approach to democratizing access to clean energy.

Yesterday the temperature recorded at Portland International Airport was 102 degrees. For us, another life-threatening heatwave underscores the urgency with which we must act.

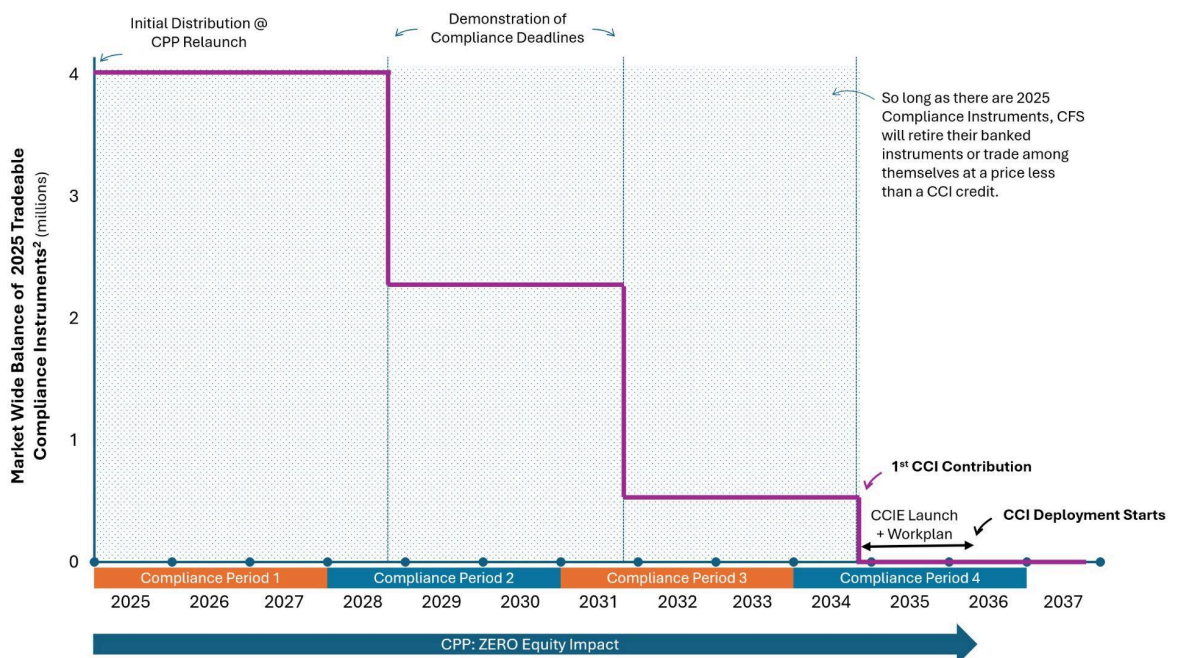
Thank you for your consideration. Please feel free to contact me if you have any questions.

Sincerely,



Se-ah-dom Edmo
Executive Director
Seeding Justice

Impact of RAC 3 Proposed Rules on CPP’s Racial Equity Impact¹



¹ Assumes 6,000,000 CCI Credits in first 10 years (Seeding Justice forecast under original invalidated rules)
² Does not include other banked instruments that may result through the re-validated CPP rules

Southern Oregon Climate Action Now

SOCAN

Confronting Climate Change

<https://socan.eco>

CPP.2024@deq.oregon.gov

Nicole Singh and DEQ Greenhouse Gas Program Staff:

I write again as cofacilitator of Southern Oregon Climate Action Now, an organization of some 2,000 Southern Oregonians who are concerned about the climate crisis and encourage state action to address it. As rural and coastal Southern Oregonians, we live on the frontlines of the warming, reducing snowpack, heatwaves, drought and the increasing wildfire risk that these trends conspire to produce. Because of this, we pay close attention to what is happening in Salem in terms of agency proposals.

I offer the following comments both in my capacity as cofacilitator of Southern Oregon Climate Action Now and my experience as a long-time university faculty member teaching ecology, conservation biology, environmental science and process of science.

I first wish to express appreciation to the DEQ staff for their efforts in developing the updated Climate Protection Program. Having noted that, I have three concerns about which, regrettably, I have no ready solutions.

- 1) My years of teaching ecology and conservation biology lead me to identify our need to address the climate crisis as falling under the same umbrella as our need to develop a sustainable lifestyle. All life on the planet, including future generations of humans, demand that we recognize a critical reality: we live on a finite planet with finite resources and a finite capacity to process our waste. Greenhouse gas emissions are, of course, among the waste production that our planet has a finite capacity to process. This reality instructs us that infinite economic growth, when it's accompanied by expanding resource use and waste production, is impossible. This is relevant to the discussion of emissions assessment by EITE industries. We know that, to protect planetary life, we need at minimum to reduce emissions to net zero by 2050. This means industries, of whatever type, must reduce their total emissions. When we start discussing emissions reductions in terms of 'emissions intensity' per widget produced – or whatever, we have pulled the wool over our own eyes. A focus on emissions intensity rather than total emissions implies that we actually think infinite economic growth is possible since emissions intensity may well drop while total emissions are rising. This is almost inevitable if increasing productivity occurs. To be realistic, we need a program that demands any increase in productivity shall be accompanied by a sufficient emissions intensity decrease as to negate the impact of that increased productivity.

Alan R.P. Journet Ph.D.

Cofacilitator

Southern Oregon Climate Action Now

alan@socan.eco

541-500-2331

June 25th 2024

In terms of the next two items, I understand that DEQ's hands are somewhat tied either by legislative action or legislative inaction.

- 2) Legislative action in Oregon has defined biofuels as zero emissions fuels even though this is not the case. This is because the production, processing and transmission / transport of the fuel requires energy the production of which results in greenhouse gas emissions. A Climate Protection Program that fails to account for those emissions is based on false accounting.
- 3) Legislative inaction or resistance has resulted in the DEQ not being authorized to assess fugitive emissions of greenhouse gases upstream from their final use and, especially, out-of-state. Again, a Climate Protection Program that pretends these upstream fugitive emissions don't exist will inevitably fall short of achieving the emissions reductions it could achieve if these were included and reduced.

In the months following Governor Brown's signing EO 20-04, we (SOCAN) engaged with the DEQ through its technology hearings and Rulemaking Advisory Committee hearings submitting substantial comments during that period. We were disappointed to learn of the judicial rejection of the CPP on a technicality and are now engaged again as the updated CPP is developed.

We strongly support DEQ's effort to restore the Climate Protection Program and urge this be completed before the end of 2024 to allow the state to remain on track for achieving critical CPP goals. Every day of delay requires a program with a steeper emissions reduction trajectory if we are to achieve the same goals. By filing suit to undermine the CPP, presumably the plaintiffs made a wager after balancing the cost of their needing to undertake more rigorous reductions later against the potential financial benefit to them (and cost to society as a whole) of eliminating the program altogether. We encourage DEQ to retain the science-based trajectory of a 45% reduction in emissions by 2035 while retaining also the Community Climate Investment component as a route for benefitting Oregon communities through the investment of hundreds of millions of dollars.

We anticipate that the CPP will spur job growth, technological innovation, enhance public health in the state along with producing cleaner, cheaper, and improved transportation options.

Reducing fossil fuel combustion emissions through the Climate Protection Program, we suggest, will benefit workers and our economy providing reduced health care costs, reducing job-loss risk, and avoiding business closures while sustaining the state's natural resources economy.

We object to the notion that the CPP should be compromised in any way by proposals arriving from the same sources who resisted throughout the previous RAC process, and who then engaged in a frivolous lawsuit that was only victorious on a technicality and which lacked any substantive justification.

I am confused by the assertion that the program does not allow offsets when the Community Climate Investments, as stated in 340-273-0900 **Purposes of Community Climate Investments and Eligible Uses of CCI Funds**, target:

“(2) A CCI entity may use CCI funds only for:

“(a) Implementing eligible projects in Oregon, which are actions that reduce anthropogenic greenhouse gas emissions that would otherwise occur in Oregon. Eligible projects include, without limitation, actions that reduce emissions in Oregon resulting from:

- “(A) Transportation of people, freight, or both;
- “(B) An existing or new residential use or structure;
- “(C) An existing or new industrial process or structure; and
- “(D) An existing or new commercial use or structure.”

Since these represent emissions reductions undertaken elsewhere than by the regulated entity, they are offsets. Maybe, the statement should be that the CPP does not allow offsets except those covered by Community Climate Investment credits.

In terms of the proposed elimination of restriction on CCI entities allowing for-profit entities to become CCI entities I would like to endorse the reservations expressed by RAC member Lisa Arkin of Beyond Toxics. If for-profit entities are permitted, there should be a requirement that they are certified Benefit Corporations since such corporations include among their goals maintaining environmental protection and a social conscience. The notion that the CCI component should be undertaken by entities that solely have a profit-driven motive will direct funds away from the environmental and social justice projects defined as the targets of the Community Climate Investments and toward the benefit of corporate shareholders.

Many Oregon businesses and industries, fossil fuel marketers and utilities were responsible for ignoring the voluntary emissions reduction goals established in 2007. These businesses have necessitated the development of a Climate Protection Program. We urge that DEQ hold them responsible for now engaging in sufficient emissions reduction to compensate for the problems and delays they have caused.

Respectfully Submitted

A handwritten signature in black ink that reads "Alan Journet". The signature is written in a cursive, flowing style.

Alan Journet
7113 Griffin Lane
Jacksonville OR
97530-9342



The Nature Conservancy in Oregon
821 SE 14th Avenue
Portland, OR 97214-2537

tel 503 802-8100

fax 503 802-8199

[nature.org/oregon](https://www.nature.org/oregon)

July 10, 2024

Oregon Department of Environmental Quality
Office of Greenhouse Gas Emissions

Public Comment: 2024 Climate Protection Program Rulemaking Advisory Committee Meeting #3

Submitted by Laura Tabor, Climate Action Director

Thank you for the opportunity to provide comments on Department of Environmental Quality (DEQ)'s Climate Protection Program (CPP) rulemaking.

The Nature Conservancy in Oregon (TNC) is a science-based, non-partisan organization with 80,000 supporters and members in every county. Addressing the climate change crisis is a core component of TNC's work to create a world where people and nature can thrive, and we strongly believe that Oregon has a responsibility to enact policies to reduce greenhouse gas emissions (GHG) and help our communities adapt to climate change. We support the CPP's goals to cap and reduce GHG emissions from transportation fuels and natural gas used in Oregon and believe this to be a crucial program for the state to achieve its climate goals.

As DEQ works to finalize draft proposed rules, we would like to emphasize the importance of reinstating a CPP that delivers 1) near-term and cumulative emissions reductions consistent with previous rules and a science-based trajectory and 2) a strong Community Climate Investment (CCI) program that invests quickly in Oregon's environmental justice community priorities.

We appreciate DEQ's desire to acknowledge early emissions reductions, but share concerns expressed by other commenters that the current combination of compliance instrument redistribution and a long first compliance period will lead to lack of compliance demonstration until 2028 and potentially much longer until any regulated entities purchase CCI credits. This timeline is at odds with the urgency of the climate crisis and importance of near-term investments in emissions reduction with less than six years remaining in the "decisive decade" until 2030. We urge DEQ to reconsider these elements, with attention to how they interact, to minimize delays in CCI investments and meaningful emissions reductions.

Two other factors are critical for a strong CCI program: maintaining the proposed CCI price and ensuring the community-driven aspect of this program. The previous rules reinforced a community-based approach by requiring CCI entities to be 501(c)(3) nonprofit organizations. While we recognize this requirement may lead to unintended constraints in implementation, there should at minimum be a requirement for CCI entities to formally partner with community-based organizations to ensure investments prioritize benefiting the needs of environmental justice communities.



July 8, 2024

Nicole Singh
Senior Climate Change Policy Advisor
Oregon Department of Environmental Quality
700 NE Multnomah St #600
Portland, OR 97232

Sent via email to cpp.2024@deq.oregon.gov and nicole.singh@deq.oregon.gov

Re: Climate Protection Program 2024 Rulemaking – Fuels Used for Wood Preservation

Dear Ms. Singh,

The draft rules for the Climate Protection Program (CPP) 2024 impose compliance obligations on fuel suppliers equal to the greenhouse gas emissions resulting from complete combustion or oxidation of the fuel sold. Wood preservers use diesel to formulate wood preserving solutions. This diesel is not used as fuel or in a manner that otherwise results in greenhouse gas emissions. The wood preserving solution is formulated by blending a pesticide concentrate purchased from a pesticide manufacturer with diesel purchased from a fuel supplier. Diesel used to formulate wood preserving solutions are kept separate and distinct from diesel intended to be combusted as fuel (such as vehicle transportation and heat) at a wood preservation facility. The draft rules for the CPP identify a difference between diesel used to formulate wood preserving solutions and diesel used in a manner that results in greenhouse gas emissions (340-273-0110 (b)(B)(iv)).

On April 19, 2023, Western Wood Preservers Institute requested an applicability determination from the Oregon Department of Environmental Quality (DEQ) on whether the use of diesel to formulate wood preserving solution creates any compliance obligations under the CPP. On April 21, 2023, DEQ confirmed that if a fuel supplier can document and verify the amount of diesel provided to a wood preserving facility to formulate wood preserving solution, DEQ will allow that fuel supplier to subtract that amount of diesel from the total amount of diesel used to calculate its GHG emissions and determine its CPP compliance obligations.

The wood preserving industry appreciates the clear exemption for fuels used to formulate wood preserving solutions in the draft CPP 2024 regulations. With the addition of a clear exemption added into the final regulations, we request that the established 2023 process be slightly changed. Instead of requiring the fuel supplier to verify the amount of fuel sold for wood preserving, the wood preserving facility should be the one verifying the amount of fuel it purchased for wood preserving and submitting that to DEQ. Additionally, for a wood preserving facility to comply with the process DEQ outlined in 2023, it will be necessary for the fuel supplier to maintain records documenting the amount of diesel which is used to formulate wood preserving solution.

Respectfully Submitted,

Butch Bernhardt
Executive Director
Western Wood Preservers Institute

From: [Christine Dension via constituent@civiclick.com](mailto:Christine.Dension.via.constituent@civiclick.com)
To: [2024 CPP * DEQ](#)
Subject: Oregonians should have a choice of energy options
Date: Sunday, June 2, 2024 7:37:54 PM

Dear Nicole Singh,

To Whom This May Concern,

We should have the choice to which type of energy is best for us as home owners. In a recent ice storm, we lost electricity for 3 days. In order to cook food and stay warm we were able to use our gas oven and fireplace. Aside from the necessity of gas, it is much more affordable. Electricity has become astronomically expensive and continue to increase. Please consider the opinions and welfare of the people when making decisions regarding energy sources.

Sincerely,
Christine Dension
1742 NE 17th Ave
Canby, OR 97013
c.dension74@gmail.com

From: [Craig Harris](#)
To: [2024 CPP * DEQ](#)
Date: Monday, July 8, 2024 3:11:34 PM
Attachments: [A3576C6769E64493AFFF9E1132E239ABF29031801.jpg](#)

You don't often get email from craig@fairgroundstowing.com. [Learn why this is important](#)

I would like to encourage DEQ to keep CCI's open to any entity regardless of its for profit or non-profit affiliation. When we look at the purpose for the CPP it is to "Reduce greenhouse gas emissions to address the worsening effects of climate change." So why would we shut off the private sector to join in on this goal? Listening to the reasons opposing opening CCI's to the private sector in RAC #3 the main and only argument was that "501's care about the communities". But if I understand how the CCI program works, whether you're a for profit entity or a non-profit entity you'll have to go before the Equity Advisory Committee to get everything approved. Since there is a mechanism for checks and balances I do not see the risk in opening this up to the private sector. It seems very peculiar that the same people advocating to reduce carbon AT ALL COSTS, and the same people who don't bat an eye at the forecasted increase in electricity prices as the CPP moves forward, are so dead set against opening up CCI's to the private sector. The private sector historically innovates faster and produces results at a lower cost regardless of the industry we're talking about. I see zero downside to opening CCI's up to the private sector. The only reason I believe many of the members of the RAC oppose this is because if CCI's are opened up to the private sector, it'll mean less money being funneled into their non-profits and they may actually have to produce results in order to get in. I strongly urge DEQ to keep CCI's open to anyone (pending approval by the EAC) if the goal is to reduce carbon. By locking this down to only non-profits I feel it would prove that this isn't about reducing carbon, but about funding pet project non-profits. I will lose a tremendous amount of faith in the entire CPP if DEQ caves in on this as it is very clear which decision will give Oregon the best advantage to reduce carbon and reduce it quickly and cost effectively.

Craig Harris

Fairgrounds Towing & Fuel LLC
O:541-479-5501 C:541-450-2721
craig@fairgroundstowing.com



From: [Diane Hodiak](#)
To: [2024 CPP * DEQ](#)
Subject: comments for RAC 3, CPP and Racial Equity measurement
Date: Tuesday, June 25, 2024 4:15:57 PM

You don't often get email from dhodiak@350deschutes.org. [Learn why this is important](#)

To: Members of the RAC committee CPP.2024@DEQ.oregon.gov

My name is Diane Hodiak, I'm executive director of 350deschutes, a nonprofit working in the climate and policy space. dhodiak@350deschutes.org

Also: Racial equity measurement: The Social Cost of Carbon is a tool that can evaluate policy outcomes, albeit, but it does minimize it. This should be used in every evaluation of policy. Also, the cost per ton should be at least \$190, \$40 is very outdated, and some say it should be as high as \$400 per ton.

Thank you for the opportunity to speak

Its of vital importance that polluters be required to pay for the damages they inflict upon people and planet from fossil fuel use. Taxpayers and individuals should not bear this cost, as is often the case in Oregon and elsewhere.

Contrary to the prevalent fossil fuel industry misinformation, elimination of fossil fuels results in tangible benefits, not only clean air, but improved health outcomes, and economic benefits. The changes this industry proposes will only hurt Oregonians and weaken a the CPP which is vitally needed. I hope you will retain and consider the following:

Oregon covered entities must be required to pay for their credits, rather than given to them at Zero Cost. Fossil fuel companies make billions of dollars. Why should Oregon not receive this revenue for better purposes?

These credits should have a price.

The CCI or community climate investments should have a price that encourages emission reductions. Preferably CCI Fees should be 5%. All CCI entities should be nonprofit organizations rather than polluters, or biased fossil fuel suppliers, or investments outside of Oregon that do not benefit Oregonians, but again, fossil fuel companies. 8888888886*^ *6

DEQ must also require immediate compliance dating back three years that were lost by industry litigation.

The base cap should not be increased, which would result in more ghg emissions. Rather the trajectory should be towards reducing the cap as in most other valuable emission reduction policies.

Large industrial emitters need a better assessment model than the BACT. Or best available emissions reduction. Perhaps to use BACT but make it actually work, rather than allow large emitters to avoid emission reductions.

Consistent regulation at all levels is important not only for Oregonians, but also for consumers and the industries themselves, since consistency and reliability are two criteria that industries can account for in their already included plans for attainment. This would also boost confidence in the system itself.

Diane Hodiak
Executive Director
She/Her/Hers
206-498-5887 talk or text
dhodiak@350Deschutes.org

Attend the [Go Clean Energy Conference October 2](#)



[Learn more about the Electrify Bend Campaign and how to get EV Charging and electric vehicles at your home, school, or business. We may be able to help you put your project together, including getting grants. Contact us today.](#)

Learn more about the Electrify Bend Campaign and how to get EV Charging and electric vehicles at your home, school, or business. Need help with getting grant funds for your project? Visit <https://350Deschutes.org> and click on PPEV. We may be able to help you put your project together.

From: [Dustin Oates](#)
To: [2024 CPP * DEQ](#)
Subject: CPP 2024 Public Comment
Date: Friday, July 5, 2024 8:48:18 AM

You don't often get email from dustin.oates@edstaub.com. [Learn why this is important](#)

I would like to thank DEQ for their due diligence on the very complex topic of keeping a level playing field within the Climate Protection Program's issuance of compliance instruments to liquid fuel suppliers. I want to strongly urge DEQ to consider incorporating ALL new entrants into the one-time distribution of compliance instruments as the new rule begins. The current rule has a one-time distribution for anyone who was a covered entity (200K MTCO₂ and above) in the old rule for their share of bio and renewables brought into the state. While I strongly agree with the distribution, I believe it would be unjust to only consider the original covered entities. We need to consider all new entrants of the new rule or else we are going to be putting those below the 200K MTCO₂, but above the 100K MTCO₂ at a disadvantage. Anyone in that window would immediately be at a disadvantage as we begin the new rule. This would not increase the Cap nor would it simply be a gift, as these entities would only get credit for their share of bio and renewable brought into the state which is what the rule is meant to encourage.

Liquid fuel suppliers did more than their fair share to reduce the GHG imported into Oregon and the smaller marketers lose out on capturing their fair share of the benefits if 100K and above do not join in on the distribution. Anyone receiving these credits has the opportunity to bank them to prevent a future price spike in fuel as the rule gets more aggressive. Anyone who doesn't receive them is immediately put at a disadvantage compared to the larger importers.

I want to highlight that these 100K and above marketers were, and are, doing the right thing by reducing GHGs in the state of Oregon which benefits the State, the communities, and the program, but simply because they are small, they are being overlooked to receive credit for the good they did. Should the new rule not include these entities, I fear small jobbers will eventually be squeezed out by the larger entities who have an extra bank of credits for doing the same thing that the smaller marketers were doing. I emphasize that ALL entrants are new entrants to the program at this point. So why should we treat some of them differently because they are small?

--

Dustin Oates
Regional Manager
Hermiston/Walla Walla/John Day
John Day Office: 541-575-0804, Hermiston Office: 541-289-5015
Cell: 541-620-0249
dustin.oates@edstaub.com
www.edstaub.com

From: [Dustin Oates](#)
To: [2024 CPP * DEQ](#)
Subject: CPP 2024 Public Comment
Date: Friday, July 5, 2024 8:49:25 AM

You don't often get email from dustin.oates@edstaub.com. [Learn why this is important](#)

I would like to encourage DEQ to keep CCI's open to any entity regardless of its for profit or non-profit affiliation. When we look at the purpose for the CPP it is to "Reduce greenhouse gas emissions to address the worsening effects of climate change." So why would we shut off the private sector to join in on this goal? Listening to the reasons opposing opening CCI's to the private sector in RAC #3 the main and only argument was that "501's care about the communities". But if I understand how the CCI program works, whether you're a for profit entity or a non-profit entity you'll have to go before the Equity Advisory Committee to get everything approved. Since there is a mechanism for checks and balances I do not see the risk in opening this up to the private sector. It seems very peculiar that the same people advocating to reduce carbon AT ALL COSTS, and the same people who don't bat an eye at the forecasted increase in electricity prices as the CPP moves forward, are so dead set against opening up CCI's to the private sector. The private sector historically innovates faster and produces results at a lower cost regardless of the industry we're talking about. I see zero downside to opening CCI's up to the private sector. The only reason I believe many of the members of the RAC oppose this is because if CCI's are opened up to the private sector, it'll mean less money being funneled into their non-profits and they may actually have to produce results in order to get in. I strongly urge DEQ to keep CCI's open to anyone (pending approval by the EAC) if the goal is to reduce carbon. By locking this down to only non-profits I feel it would prove that this isn't about reducing carbon, but about funding pet project non-profits. I will lose a tremendous amount of faith in the entire CPP if DEQ caves in on this as it is very clear which decision will give Oregon the best advantage to reduce carbon and reduce it quickly and cost effectively.

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Dustin Oates
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Cell: 541-620-0249
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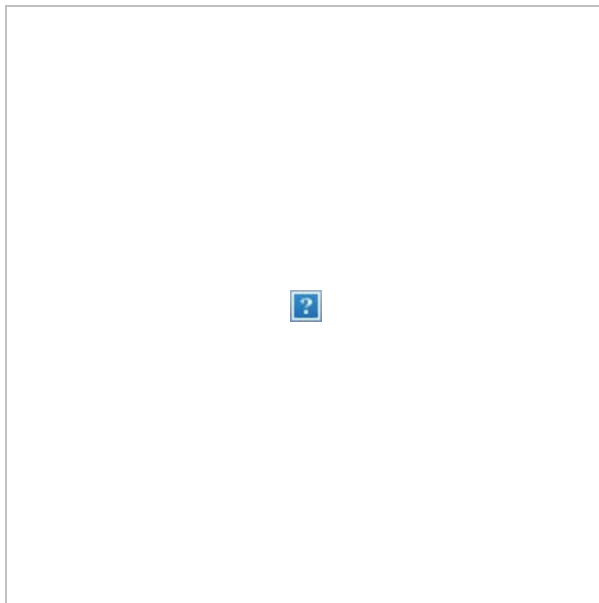
From: [Brad Staub](#)
To: [2024 CPP * DEQ](#)
Subject: CCI'S
Date: Friday, July 5, 2024 11:26:27 AM

You don't often get email from brad.staub@edstaub.com. [Learn why this is important](#)

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Brad Staub
541-281-2150
brad.staub@edstaub.com
www.edstaub.com | www.myfastbreak.com



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From: [Jason Cole](#)
To: [2024 CPP * DEQ](#)
Subject: CPP 2024 Public Comment
Date: Sunday, July 7, 2024 11:07:25 PM

You don't often get email from colejason10@gmail.com. [Learn why this is important](#)

I would like to thank DEQ for their due diligence on the very complex topic of keeping a level playing field within the Climate Protection Program's issuance of compliance instruments to liquid fuel suppliers. I want to strongly urge DEQ to consider incorporating ALL new entrants into the one-time distribution of compliance instruments as the new rule begins. The current rule has a one-time distribution for anyone who was a covered entity (200K MTCO₂ and above) in the old rule for their share of bio and renewables brought into the state. While I strongly agree with the distribution, I believe it would be unjust to only consider the original covered entities. We need to consider all new entrants of the new rule or else we are going to be putting those below the 200K MTCO₂, but above the 100K MTCO₂ at a disadvantage. Anyone in that window would immediately be at a disadvantage as we begin the new rule. This would not increase the Cap nor would it simply be a gift, as these entities would only get credit for their share of bio and renewable brought into the state which is what the rule is meant to encourage.

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Thank you,

Jason Cole

From: [Amarveer Singh](#)
To: [2024 CPP * DEQ](#)
Subject: DEQ CPP
Date: Monday, July 8, 2024 6:47:49 PM

You don't often get email from veer@amardevelopment.com. [Learn why this is important](#)

I would like to encourage DEQ to keep CCI's open to any entity regardless of its for profit or non-profit affiliation. When we look at the purpose for the CPP it is to "Reduce greenhouse gas emissions to address the worsening effects of climate change." So why would we shut off the private sector to join in on this goal? Listening to the reasons opposing opening CCI's to the private sector in RAC #3 the main and only argument was that "501's care about the communities". But if I understand how the CCI program works, weather you're a for profit entity or a non-profit entity you'll have to go before the Equity Advisory Committee to get everything approved. Since there is a mechanism for checks and balances I do not see the risk in opening this up to the private sector. It seems very peculiar that the same people advocating to reduce carbon AT ALL COSTS, and the same people who don't bat an eye at the forecasted increase in electricity prices as the CPP moves forward, are so dead set against opening up CCI's to the private sector. The private sector historically innovates faster and produces results at a lower cost regardless of the industry we're talking about. I see zero downside to opening CCI's up to the private sector. The only reason I believe many of the members of the RAC oppose this is because if CCI's are opened up to the private sector, it'll mean less money being funneled into their non-profits and they may actually have to produce results in order to get in. I strongly urge DEQ to keep CCI's open to anyone (pending approval by the EAC) if the goal is to reduce carbon. By locking this down to only non-profits I feel it would prove that this isn't about reducing carbon, but about funding pet project non-profits. I will lose a tremendous amount of faith in the entire CPP if DEQ caves in on this as it is very clear which decision will give Oregon the best advantage to reduce carbon and reduce it quickly and cost effectively.

Regards,
Amarveer Singh
360 909 9293
veer@amardevelopment.com

From: [Deep Singh](#)
To: [2024 CPP * DEQ](#)
Subject: CPP (Climate Change Program)
Date: Monday, July 8, 2024 6:39:08 PM

You don't often get email from deep@amardevelopment.com. [Learn why this is important](#)

Dear DEQ,

I would like to encourage DEQ to keep CCI's open to any entity regardless of its for profit or non-profit affiliation. When we look at the purpose for the CPP it is to "Reduce greenhouse gas emissions to address the worsening effects of climate change." So why would we shut off the private sector to join in on this goal? Listening to the reasons opposing opening CCI's to the private sector in RAC #3 the main and only argument was that "501's care about the communities". But if I understand how the CCI program works, weather you're a for profit entity or a non-profit entity you'll have to go before the Equity Advisory Committee to get everything approved. Since there is a mechanism for checks and balances I do not see the risk in opening this up to the private sector. It seems very peculiar that the same people advocating to reduce carbon AT ALL COSTS, and the same people who don't bat an eye at the forecasted increase in electricity prices as the CPP moves forward, are so dead set against opening up CCI's to the private sector. The private sector historically innovates faster and produces results at a lower cost regardless of the industry we're talking about. I see zero downside to opening CCI's up to the private sector. The only reason I believe many of the members of the RAC oppose this is because if CCI's are opened up to the private sector, it'll mean less money being funneled into their non-profits and they may actually have to produce results in order to get in. I strongly urge DEQ to keep CCI's open to anyone (pending approval by the EAC) if the goal is to reduce carbon. By locking this down to only non-profits I feel it would prove that this isn't about reducing carbon, but about funding pet project non-profits. I will lose a tremendous amount of faith in the entire CPP if DEQ caves in on this as it is very clear which decision will give Oregon the best advantage to reduce carbon and reduce it quickly and cost effectively.

Thank you,

Deep Singh
Deep@amardevelopment.com
360-567-9077

From: [Brianna Singh](#)
To: [2024 CPP * DEQ](#)
Subject: CCP (Climate Change Program)
Date: Monday, July 8, 2024 6:52:28 PM

You don't often get email from brianna@amardevelopment.com. [Learn why this is important](#)

DEQ,

I would like to encourage DEQ to keep CCI's open to any entity regardless of its for profit or non-profit affiliation. When we look at the purpose for the CPP it is to "Reduce greenhouse gas emissions to address the worsening effects of climate change." So why would we shut off the private sector to join in on this goal? Listening to the reasons opposing opening CCI's to the private sector in RAC #3 the main and only argument was that "501's care about the communities". But if I understand how the CCI program works, weather you're a for profit entity or a non-profit entity you'll have to go before the Equity Advisory Committee to get everything approved. Since there is a mechanism for checks and balances I do not see the risk in opening this up to the private sector. It seems very peculiar that the same people advocating to reduce carbon AT ALL COSTS, and the same people who don't bat an eye at the forecasted increase in electricity prices as the CPP moves forward, are so dead set against opening up CCI's to the private sector. The private sector historically innovates faster and produces results at a lower cost regardless of the industry we're talking about. I see zero downside to opening CCI's up to the private sector. The only reason I believe many of the members of the RAC oppose this is because if CCI's are opened up to the private sector, it'll mean less money being funneled into their non-profits and they may actually have to produce results in order to get in. I strongly urge DEQ to keep CCI's open to anyone (pending approval by the EAC) if the goal is to reduce carbon. By locking this down to only non-profits I feel it would prove that this isn't about reducing carbon, but about funding pet project non-profits. I will lose a tremendous amount of faith in the entire CPP if DEQ caves in on this as it is very clear which decision will give Oregon the best advantage to reduce carbon and reduce it quickly and cost effectively.

Sent from my iPhone

From: [Karam Singh](#)
To: [2024 CPP * DEQ](#)
Subject: CPP
Date: Monday, July 8, 2024 6:48:18 PM

You don't often get email from tasteofindia1993@gmail.com. [Learn why this is important](#)

I would like to encourage DEQ to keep CCI's open to any entity regardless of its for profit or non-profit affiliation. When we look at the purpose for the CPP it is to "Reduce greenhouse gas emissions to address the worsening effects of climate change." So why would we shut off the private sector to join in on this goal? Listening to the reasons opposing opening CCI's to the private sector in RAC #3 the main and only argument was that "501's care about the communities". But if I understand how the CCI program works, weather you're a for profit entity or a non-profit entity you'll have to go before the Equity Advisory Committee to get everything approved. Since there is a mechanism for checks and balances I do not see the risk in opening this up to the private sector. It seems very peculiar that the same people advocating to reduce carbon AT ALL COSTS, and the same people who don't bat an eye at the forecasted increase in electricity prices as the CPP moves forward, are so dead set against opening up CCI's to the private sector. The private sector historically innovates faster and produces results at a lower cost regardless of the industry we're talking about. I see zero downside to opening CCI's up to the private sector. The only reason I believe many of the members of the RAC oppose this is because if CCI's are opened up to the private sector, it'll mean less money being funneled into their non-profits and they may actually have to produce results in order to get in. I strongly urge DEQ to keep CCI's open to anyone (pending approval by the EAC) if the goal is to reduce carbon. By locking this down to only non-profits I feel it would prove that this isn't about reducing carbon, but about funding pet project non-profits. I will lose a tremendous amount of faith in the entire CPP if DEQ caves in on this as it is very clear which decision will give Oregon the best advantage to reduce carbon and reduce it quickly and cost effectively.

Regards,
Karam Singh
Thank you

From: [Kim Davis](#)
To: [2024 CPP * DEQ](#)
Subject: Protect the Oregon Climate Protection Program
Date: Monday, June 24, 2024 5:11:34 PM

You don't often get email from kimmardav@gmail.com. [Learn why this is important](#)

The Community Climate Investment program was developed with significant input from community members and environmental justice advocates. It enacts community-informed solutions to reduce energy costs, strengthen home safety, and ensure cleaner, healthier air for future generations. Maintaining the third-party structure for the implementation of the CCI program is critical. These non-profit entities have the experience and established trust with environmental justice communities that agencies do not.

I strongly oppose offsets because offsetting pollution involves buying and trading imaginary credits that allow corporations to pollute as long as they buy enough credits to make up for it. Many projects established for credits have proven ineffective. Some people see offsets as greenwashing because it's hard to calculate exactly how much offsetting is required to make up for the polluting action or if there are action long term benefits to the projects themselves.

Investing in EJ communities is meant to support a community-centered, clean energy future. Community-led solutions will make our air cleaner, our homes safer, and lead to more sustainable futures for generations to come. It also provides cleaner, healthier, and more affordable energy and transportation options that benefit Oregonians who have been historically ignored. The impact of reducing emissions will also bring benefits to EJ communities by mitigating environmental instability that is caused by climate disasters such as extreme heat and wildfire smoke.

Please do everythig possible to maintain the CPP as initially developed.

Thank you.
Kim Davis

From: [Linore Blackstone](#)
To: [2024 CPP * DEQ](#)
Subject: Reinstate the CPP
Date: Wednesday, June 19, 2024 8:39:31 AM

[You don't often get email from llblackstone@comcast.net. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

Dear DEQ, our agencies have, for years, practiced “target” management instead of writing and enforcing protection rules needed to begin to address the damage from human disregard for the life of this planet. You know the science. You know what is ethical. Some of you on the ground know what must be done, now, to mitigate the harm done. Act with integrity.

Thank you,
Linore Blackstone
Portland, Oregon

From: [R.B. Garden](#)
To: [2024 CPP * DEQ](#)
Subject: Climate Protection Program (CPP)
Date: Wednesday, June 19, 2024 8:21:06 PM

You don't often get email from clubs900@gmail.com. [Learn why this is important](#)

In 2020, Oregon took the lead in climate action by creating the [Oregon Climate Action Plan](#). This plan led to the ***Climate Protection Program*** (CPP), which went into effect in January 2022 and set Oregon on a path to permanently limit greenhouse gas emissions. **The CPP requires oil and gas companies to steadily reduce their greenhouse gas emissions by a significant 80% by 2050!**

Why does the Climate Protection Program Need Your Support?

In 2023, oil and gas companies sued the State of Oregon and used a legal loophole to shut down the CPP. Now, the DEQ is working with diverse stakeholders to reinstate the program in 2024. Our goal is to strengthen the program and protect it against future attacks by polluters.

Give the People back the program that works for them. Gas and Oil companies are not working for the benefit of people and the planet. They are out for themselves along. Support the people and give us back the CPP we created.

Thank you,
RB Garden
Springfield, OR

From: [Sawarn Kaur](#)
To: [2024 CPP * DEQ](#)
Subject: Cpp
Date: Monday, July 8, 2024 6:48:37 PM

You don't often get email from sawarn1015@gmail.com. [Learn why this is important](#)

I would like to encourage DEQ to keep CCI's open to any entity regardless of its for profit or non-profit affiliation. When we look at the purpose for the CPP it is to "Reduce greenhouse gas emissions to address the worsening effects of climate change." So why would we shut off the private sector to join in on this goal? Listening to the reasons opposing opening CCI's to the private sector in RAC #3 the main and only argument was that "501's care about the communities". But if I understand how the CCI program works, weather you're a for profit entity or a non-profit entity you'll have to go before the Equity Advisory Committee to get everything approved. Since there is a mechanism for checks and balances I do not see the risk in opening this up to the private sector. It seems very peculiar that the same people advocating to reduce carbon AT ALL COSTS, and the same people who don't bat an eye at the forecasted increase in electricity prices as the CPP moves forward, are so dead set against opening up CCI's to the private sector. The private sector historically innovates faster and produces results at a lower cost regardless of the industry we're talking about. I see zero downside to opening CCI's up to the private sector. The only reason I believe many of the members of the RAC oppose this is because if CCI's are opened up to the private sector, it'll mean less money being funneled into their non-profits and they may actually have to produce results in order to get in. I strongly urge DEQ to keep CCI's open to anyone (pending approval by the EAC) if the goal is to reduce carbon. By locking this down to only non-profits I feel it would prove that this isn't about reducing carbon, but about funding pet project non-profits. I will lose a tremendous amount of faith in the entire CPP if DEQ caves in on this as it is very clear which decision will give Oregon the best advantage to reduce carbon and reduce it quickly and cost effectively.

Regards,

From: [Scott Tiedtke via constituent@civiclick.com](mailto:Scott.Tiedtke.via.constituent@civiclick.com)
To: [2024 CPP * DEQ](#)
Subject: Oregonians should have a choice of energy options
Date: Friday, May 31, 2024 11:56:28 AM

Dear Nicole Singh,

If it weren't for Natura Gas availability, my wife and I would not have been able to stay in our home during any of the past ice/snow storms. We also couldn't leave our home, due to the road conditions. Which would have left us alone, without power, communication abilities to freeze in our home. Other concerns during that time were medical emergencies and damage to our home, due to burst pipes. Which we were able to avoid, by having natural gas and a generator, which allowed us to keep enough heat in the house to keep us warm and prepare food until we were able to travel on the roads again. The generator also allowed us to keep our communication devices charged, in case of an emergency where we could of at least had access to medical assistance.

Sincerely,
Scott Tiedtke
4120 N Locust St
OR - Canby, OR 97013
arinat3@msn.com

From: [T&C Healy](#)
To: [2024 CPP * DEQ](#)
Subject: CPP
Date: Monday, July 8, 2024 3:13:44 PM

You don't often get email from healybend@gmail.com. [Learn why this is important](#)

To whom this concerns,

I would like to encourage DEQ to keep CCI's open to any entity regardless of its for profit or non-profit affiliation. When we look at the purpose for the CPP it is to "Reduce greenhouse gas emissions to address the worsening effects of climate change." So why would we shut off the private sector to join in on this goal? Listening to the reasons opposing opening CCI's to the private sector in RAC #3 the main and only argument was that "501's care about the communities". But if I understand how the CCI program works, whether you're a for profit entity or a non-profit entity you'll have to go before the Equity Advisory Committee to get everything approved. Since there is a mechanism for checks and balances I do not see the risk in opening this up to the private sector. It seems very peculiar that the same people advocating to reduce carbon AT ALL COSTS, and the same people who don't bat an eye at the forecasted increase in electricity prices as the CPP moves forward, are so dead set against opening up CCI's to the private sector. The private sector historically innovates faster and produces results at a lower cost regardless of the industry we're talking about. I see zero downside to opening CCI's up to the private sector. The only reason I believe many of the members of the RAC oppose this is because if CCI's are opened up to the private sector, it'll mean less money being funneled into their non-profits and they may actually have to produce results in order to get in. I strongly urge DEQ to keep CCI's open to anyone (pending approval by the EAC) if the goal is to reduce carbon. By locking this down to only non-profits I feel it would prove that this isn't about reducing carbon, but about funding pet project non-profits. I will lose a tremendous amount of faith in the entire CPP if DEQ caves in on this as it is very clear which decision will give Oregon the best advantage to reduce carbon and reduce it quickly and cost effectively.

Best Regards.

Tom Healy

CEO Expressway Markets.

541-419-2199

From: [Jared Staub](#)
To: [2024 CPP * DEQ](#)
Subject: CPP 2024 Public Comment
Date: Tuesday, July 16, 2024 8:01:58 AM

You don't often get email from jared.staub@edstaub.com. [Learn why this is important](#)

I would like to thank DEQ for their due diligence on the topic of keeping a level playing field within the Climate Protection Program's issuance of compliance instruments to liquid fuel suppliers. I want to strongly urge DEQ to consider incorporating ALL new entrants into the one-time distribution of compliance instruments as the new rule begins. The current rule has a one-time distribution for anyone who was a covered entity (200K MTCO₂ and above) in the old rule for their share of bio and renewables brought into the state. While I strongly agree with the distribution, I believe it would be unjust to only consider the original covered entities. We need to consider all new entrants of the new rule or else we are going to be putting those below the 200K MTCO₂, but above the 100K MTCO₂ at a disadvantage. Anyone in that window would immediately be at a disadvantage as we begin the new rule. This would not increase the Cap nor would it simply be a gift, as these entities would only get credit for their share of bio and renewable brought into the state which is what the rule is meant to encourage.

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I want to highlight that these 100K and above marketers were, and are, doing the right thing by reducing GHGs in the state of Oregon which benefits the State, the communities, and the program, but simply because they are small, they are being overlooked to receive credit for the good they did. Should the new rule not include these entities, I fear small jobbers will eventually be squeezed out by the larger entities who have an extra bank of credits for doing the same thing that the smaller marketers were doing. I emphasize that ALL entrants are new entrants to the program at this point. So why should we treat some of them differently because they are small?

--

Jared Staub
541-281-1696
jared.staub@edstaub.com
www.edstaub.com | www.myfastbreak.com

From: [Jared Staub](#)
To: [2024 CPP * DEQ](#)
Subject: CPP 2024 Public Comment
Date: Tuesday, July 16, 2024 8:08:00 AM

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I would like to encourage DEQ to keep CCI's open to any entity regardless of its for profit or non-profit affiliation. When we look at the purpose for the CPP it is to "reduce greenhouse gas emissions to address the worsening effects of climate change." So why would we shut off the private sector to join in on this goal? Listening to the reasons opposing opening CCI's to the private sector in RAC #3 the main and only argument was that "501's care about the communities". But if I understand how the CCI program works, whether you're a for-profit entity or a non-profit entity, you'll have to go before the Equity Advisory Committee to get everything approved. Since there is a mechanism for checks and balances I do not see the risk in opening this up to the private sector. It seems very peculiar that the same people advocating to reduce carbon AT ALL COSTS, and the same people who don't bat an eye at the forecasted increase in electricity prices as the CPP moves forward, are so dead set against opening up CCI's to the private sector. The private sector historically innovates faster and produces results at a lower cost regardless of the industry. I see zero downside to opening CCI's up to the private sector. The only reason I believe many of the members of the RAC oppose this is because if CCI's are opened up to the private sector, it'll mean less money being funneled into their non-profits and they may actually have to produce results in order to get in. I strongly urge DEQ to keep CCI's open to anyone (pending approval by the EAC) if the goal is to reduce carbon. By locking this down to only non-profits I feel it would prove that this isn't about reducing carbon, but about funding pet project non-profits. I will lose a tremendous amount of faith in the entire CPP if DEQ caves in on this as it is very clear which decision will give Oregon the best advantage to reduce carbon and reduce it quickly and cost effectively.

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