



Oregon Department of Environmental Quality

Meeting Summary

Climate Protection Program 2024

Rulemaking Advisory Committee Meeting #3

June 25, 2024, 9 a.m. to 4:30 p.m.

DEQ Headquarters, 3rd Floor Conference Room

700 NE Multnomah St #600, Portland, OR 97232

List of attendees

Committee Members in Attendance (for all or part of the meeting):

- Alyn Spector, Cascade Natural Gas (Alternate)
- Alex Gallard, Pacific Propane Gas Association
- Bill Gaines, Alliance of Western Energy Consumers (AWEC)
- Carra Sahler, Green Energy Institute
- Charity Fain, Community Energy Project
- Chris Huiard, Space Age
- Chris McCabe, Northwest Pulp & Paper Association
- Ira Cuello Martinez, Pineros y Campesinos Unidos del Noroeste (PCUN)
- Jessica Spiegel, Western States Petroleum Association (WSPA)
- Jeremy Price, HF Sinclair
- Kyna Harris, Oregon Public Health Institute
- Lisa Arkin, Beyond Toxics
- Mark Bunch, bp America, Inc.
- Mark Healy, Contractor to Coquille Indian Tribe
- Mary Moerlins, Northwest Natural
- Meredith Connolly, Climate Solutions
- Mike Freese, Oregon Fuels Association
- Nick Staub, Ed Staub & Sons
- Nora Apter, Oregon Environmental Council
- Pam Barrow, Food Northwest
- Patrick Mills, Confederated Tribes of Umatilla Indian Reservation
- Ranfis Villatoro, BlueGreen Alliance
- Shaun Jillions, Avista
- Sharla Moffett, Oregon Business and Industry
- Tim Miller, Oregon Businesses for Climate
- Xitlali Torres, Verde

Governor's Office and Guests in Attendance:

- Karin Power, Natural Resources and Climate Policy Advisor for Governor Tina Kotek
- Geoff Huntington, Senior Natural Resources Advisor for Governor Tina Kotek
- JP Batmale, Energy Resources and Programs, Division Administrator, Oregon Public Utilities Commission

DEQ and Project Team Staff in Attendance:

- Leah Feldon, DEQ, Director
- Colin McConnaha, DEQ, Office of GHG Programs Manager
- Nicole Singh, DEQ, Climate Protection Manager
- Matt Steele, DEQ, Climate Policy Analyst
- Rachel Fernandez, DEQ, Greenhouse Gas Program Analyst
- Whitney Dorer, DEQ, Climate Policy Community Engagement Coordinator
- Sylvia Ciborowski, Kearns & West, Senior Facilitator
- Ariella Dahlin, Kearns & West, Associate

Agenda Item: Welcome and opening remarks

Sylvia Ciborowski, Lead Facilitator, opened the meeting and provided an overview of meeting logistics. Colin McConnaha, Office of GHG Programs Manager, introduced himself and the DEQ team. Geoff Huntington and Karin Power, Advisors for Governor Tina Kotek, provided opening remarks. Leah Feldon, DEQ Director, provided opening remarks.

Sylvia reviewed the meeting objectives and agenda and facilitated introductions, then shared that materials can be found on the CPP website.

A RAC member stated it is difficult to was difficult to comment by the requested date. DEQ would appreciate if RAC members could try to provide comments by the requested date.

Agenda Item: Discuss CPP 2024 draft rules

Nicole shared that the CPP's new division number is 273, and the enforcement division 12 has no proposed changes. She noted that DEQ will focus on changes from the 2021 CPP rules to the new draft CPP rules and for ease of review the meeting materials included redlined version of proposed changes for division 273 from the 2021 CPP rules.

CCIs and flexibility mechanisms

Whitney shared that thousands of comments from the original CPP were used to develop the CCI program. She provided an overview highlighting the starting CCI contribution amount of \$129, CCI credits cannot be banked, and that one-to-one emissions reduction remains a priority for the program. Sylvia introduced the following discussion questions for committee consideration:

- **What do you think about what is proposed in the rules, and why?**
- **What would you propose to improve in the rules?**

Questions/Comments/ Discussion

- RAC members asked question about whether the one-to-one reduction was required and if that was being tracked at the portfolio level and whether it was for the proposed three-year compliance period? DEQ commented that the Equity Advisory Committee was key to implementation and individual projects were not required to one-to-one reduction target, but as a portfolio on average for every CCI credit awarded there should be a one-to-one reduction. They should. The two-year review of the program would look at indicators of success.
- RAC members asking when the CCI entity would be in place. DEQ discussed that DEQ had through the selection process previously which would most likely help with timing. Changing eligibility could change this, but DEQ's goal to get a CCI entity up as soon as possible, beginning work towards this on day 1. RAC members commented that RFA work has been completed and the program is not starting from scratch. Some RAC members also comment that EJ communities are facing further delay as DEQ has to redo this work.
- Getting a CCI entity in place should happen as soon as possible, before March 2027. For EJ communities, that timeline is too long. DEQ also clarified that March 2027 is the first increase in the CCI contribution amount.
- Some RAC members commented that the proposed CCI contribution amount is unnecessary and seems the justification is for distributing funds to communities. The correct method would be to index other CCI and market forces for the price of carbon.
- A RAC member representing a utility commented that utilities wanted to be part of the investment of CCIs into projects.
- Several RAC members supported DEQ's the proposed CCI contribution amount as it reflects the previously adopted contribution amount and there was extensive community support of how the CCI program was designed. These members also commented that this program design would support multiple benefits, including the equity and emission reductions goals of the CPP, along with a compliance flexibility option for regulated entities.
- A RAC member commented that the 15% usage percentage for CCI should be increased and banking of CCI was needed.
- Multiple RAC members commented that not allowing for offsets is disappointing and will lead to cost impacts for consumers as entities pass on their compliance costs.
- Several RAC members support for CCI investments only for alternative to reducing emissions for regulated entities and not including offsets.
- One RAC member commented that there was risk to earning CCIs as the program will face more legal challenges, suggest restoring fuel suppliers to the position in terms of compliance instruments under CPP 2021.
- Several RAC members representing regulated entities commented that DEQ should allow for limited banking of CCIs, as entities may not always know how many they need and no banking of CCIs may increase costs. DEQ noted that regulated entities will have the opportunity to earn CCI credits after they have determined their compliance obligation for each compliance period.
- Some RAC member discussed how the Oregon Public Utilities Commission (PUC) would implement banking if CCIs were not necessary for a utility to meet the climate obligations in a compliance period. PUC staffer commented that the PUC would work within the CPP rules set by DEQ around the least cost risk PUC's perspective, it would have to make sense for the utility to buy more at the beginning, but they would work with the utilities.
- Several RAC members, in particular representatives of community-based organizations, expressed concern with allowing the CCI third party to be for profit company, instead of just allowing for the CCI entity to be able to subcontract with for profit companies. These comments

emphasized importance community connection, trust and equitable engagement that nonprofit excel and in concerns with the conflicting needs of organizing for profit. They noted:

- RAC members commented that if DEQ wished to broaden the pool of nonprofits that could apply to be a CCI entity, DEQ could focus on outreach and education, simplify the application, and provide technical assistance.
- Some RAC members commented on potential tax implications if CCI contributions are made to a for profit entity.

Regulated entities

Nicole discussed compliance periods and regulation of EITE sources. Matt presented on regulation of natural gas utilities and stationary sources under the BAER. Sylvia introduced the following discussion questions for committee consideration:

- **What do you think about what is proposed in the rules and why?**
- **What would you propose to improve in the rules?**
- Multiple RAC members, representing EITE sources and other regulated entities, were supportive of the addition of EITE sources as regulated entities.
- Multiple RAC members, representing EITE sources and other regulated entities, were supportive of DEQ regulating emission reductions using an emissions intensity approach and commented that they appreciated DEQ's willingness to hear EITE sources' comments.
- Several RAC members commented on the approach for regulating EITE sources in the first compliance period. RAC members commented that that baseline period for the distribution was not appropriate. RAC members agreed that it is important to have
- robust emissions intensity allocation method, but data was available and could be adopted now. DEQ also received comments from some of these RAC members that the 7% decline in the compliance distribution per compliance period was too steep.
- DEQ received a clarification question from a RAC member representing a utility on how the distribution of compliance instruments for those entities' distribution of compliance instruments to more information on which companies DEQ were being included as EITEs in these discussions and draft rules. DEQ provided more background and comments that the distribution percentages on the slide are different than what was in the draft rules and referred to the percentages in the presentation. DEQ also commented that understood how more detail on EITEs would be helpful and to anticipate that thit type of information would be provided in materials that accompany the Notice of Proposed Rulemaking.
- Some RAC member comments the 25,000 MT thresholds should be lower for EITEs and sources should have an opt-in option to be considered an EITE.
- Several comments from RAC members the BAER seems staff-intensive and does mandate emissions reductions under the cap and that DEQ should consider emissions intensity reduction approach for BAER emission in the future.
- Multiple RAC members commented on the timeline for BAER and delays and the impacts on communities and climate health benefits.
- RAC members commented that emissions reductions should be clearly defined for BAER with timeline to achieve goals. There is also no recognition of racial equity element of implementing BAER effectively and there is no technical assistance provided to communities for analyzing and commenting.

- Some RAC members commented that DEQ adjust the cap as new entities and manufacturers are regulated.
- One RAC member commented that EITEs should stay focused on keeping jobs in Oregon. As companies are allowed to be EITEs, they should support the workers in Oregon. EITEs should commit to work with labor at facilities and community members and developing emission reduction plans and worker transition plans in the event of closure. Workers should also be notifying workers of plant closures. These commitments and requirements this will also make our region competitive for Inflation Reduction Act funding.

Emission reductions

Matt presented an overview of the emissions cap and compliance instrument distribution. Sylvia introduced the following discussion questions for consideration:

- *What do you think about what is proposed in the rules and why?*
- *What would you propose to improve in the rules?*

Questions/comments/discussion

- A RAC member comments that the compliance instrument distribution in recognition of emissions achieved from 2022-2024, did not benefit many entities who brought in biofuels. DEQ clarified that the one-time distribution would be calculated using emission data from fuels suppliers at or above the 200,000 threshold but as proposed all entities regulated at 100,000 or higher threshold would be included in the distribution.
- A RAC member comments that there should be no restriction on trading these compliance instruments as liquidity is needed in the the market. RAC member also comments that since CPP was stopped in 2024 and there was no compliance obligation, the 2025 distribution to liquid fuels and proposed suppliers should not be based on 2024 emissions. DEQ should 2023 emission data. Another RAC member agreed. or some other way to calculate a share of the truer market. Another RAC member agreed with using 2023 data for the calculation.
- Another RAC member disagreed and said that 2024 emission data should be used for the 2025 compliance instrument as without CPP requirements in 2024 companies changed business strategies.
- Several RAC members disagreed with distributing these type of compliance instruments, noting that companies were being rewarded for reduction under 2021 CPP, but nothing was being done to compensate communities for the delay in implementation. DEQ could consider distributing these instruments out over time or limiting trading as potential CCI investments would be further delayed.
- Another RAC member comments that methodology see fine and also suggest greater flexibility in the program as there is little liquidity and price discover. Commentor contrasted with Washington's program which has more trading and has partial compliance demonstration each year. DEQ noted the request for price discovery and how the length of the compliance period or partial compliance might impact this.
- Some RAC member commented that there is significant delay with three-year compliance period and would want to see a shorter compliance period and noted partial compliance suggestion could be promising. Carbon needs to be reduced now and communities need investments now.
- Some RAC member commented that there were not enough relief valves in the program

- A RAC member noted there seems to be a potential of consensus for a shorter compliance period and would support a one-year compliance period at program start, or the earlier suggestion to demonstrate partial compliance
- Another RAC member supported a strict first compliance period, noting that industry should be prepared to make changes, as climate change impacts have been known for decades.

Agenda Item: Remarks from Oregon Public Utilities Commission (PUC) Staff

JP Batmale, Energy Resources and Programs, Division Administrator, Oregon PUC presented an overview of the PUC, the rate-making formula, and how the CPP can influence rates. He reviewed lessons learned from the 2021 CPP implementation.

Questions and clarifications

- Some questions included:
- Can utilities buy non-CCIs?
 - Would the PUC approve one entity purchasing an instrument from another?
 - Did the PUC look at rate impacts after the first year of CPP implementation?
 - Should we assume the rate impact of CPP is 10% on top of 10% each year for five years?
 - Don't rates increase for many reasons, some of which are related to clean energy and others not? With or without CPP wouldn't rates still go up?
 - Isn't affordability an issue? CPP and CCIs could help that.
 - How are the reinvestment of CCI funds included or captured? These are investments in Oregon.

PUC replied that PUC will allow whatever DEQ includes in the CPP as compliance options. Utilities forecast rate impacts and PUC saw utilities' forecast rate impacts of CPP at 10% rate increase, but markets can change rapidly year. PUC commented that the presentation was a simplification but there are some of the reasons and way rates are impacted. Utility forecasts saw costs increase each year, but utilities want to keep costs low. PUC commented on the bill discounts for residential customers.

Agenda Item: Review draft fiscal impact and economic statement (including third-party CCI entity fee)

Fiscal and Economic Impact Statement

Nicole presented an overview of the Fiscal and Economic Impact Statement (FEIS). She shared what the statement was informed by, discussed some of the key entities the statement discussed, including impacts affected entities and the public.

Sylvia introduced the following discussion questions for committee consideration:

- *Comments on proposed fiscal impacts for regulated entities?*
- *Do the proposed rule amendments have a significant adverse impact on small businesses?*
 - *Anything additional that DEQ could consider to mitigate any such impacts?*
- *Anything else DEQ should consider to mitigate any other potential fiscal impacts?*

RAC members had the following questions/comments:

- RAC members represented utilities comment that all customers would be impacted and suggest that DEQ allow covered entities to provide up-to-date information on natural gas rate impacts. Would like to see a longer comment period, beyond July 8. There are several variables that no one can predict, including trading costs. DEQ responded that any additional or updated information provided by regulated entities once provided could be updated and included in the FEIS.
- One RAC member commented the cost estimate model seems off and would need more information from DEQ for the small business impact. There is not enough information to model based on cost analysis. DEQ clarified that the number of small businesses include in the Statement of Cost of Compliance is the number of regulated companies anticipated to be regulated by the program that are small businesses based on the number of employees. All the 5 businesses DEQ has identified as small businesses are liquid fuels and propane suppliers.
- A RAC member commented that there is a potential for savings and incentives through the program. ODOE has a tracker tool that includes 115 programs available in Oregon, which is a little under \$1 billion in benefits.
- A RAC member comment that economic benefits of the investments from CCIs is something that is limited and lacking in modeling and the FEIS. Another RAC member also commented it would be helpful if the FEIS quantified the value of CCI investments and projects, including the value of investments in Oregon communities.
- There was also a comment that the FEIS should highlight things that have shifted since the CPP 2021 was implemented like the Inflation Reduction Act. IRA funds could mean millions for the Oregon economy and want to ensure investments support Oregonians and are reflected in the FEIS. FEIS at minimum should mention the Solar for All and Hydrogen Hub programs.
- A RAC member commented that the FEIS was thorough. However, the FEIS should also indicate that the CPP will provide jobs through the green economy and will avoid costs caused by an exacerbated climate.
- A RAC member commented that it was not possible to get reasonable understanding of fiscal impacts when prior modeling was for a different reduction target and CCI price. DEQ replied that the FEIS included prior modeling done on behalf DEQ and also submitted by stakeholder as this information was informative. DEQ also commented that the emission modeling, macroeconomic, health and equity assessment were performed by ICF to help inform potential program options for DEQ and the public and not necessarily the final program design. DEQ does acknowledge these comments
- DEQ also acknowledge the request for additional information on the how the starting CCI contribution amount is determined.

CCI Entity Fee

Whitney presented an overview of the CCI entity. Sylvia introduced the following discussion questions for committee consideration:

- *Any questions or comments on DEQ's proposed fee for administration and oversight of the Community Climate Investment Program?*

RAC members had the following questions/comments:

- A RAC member asked if there an estimated cost for the CCI program for DEQ. DEQ clarified that the costs discussed include administration and oversight by DEQ.

- DEQ clarified that only the approved CCI entities would pay this fee.
- A RAC member how DEQ determined the difference CCI usage scenarios, as natural gas utilities may maximize usage of CCI and scenarios do not seem to reflect that. DEQ clarified that the scenarios use a variety of assumptions, and DEQ did not include a scenario for maximizing usage of CCIs, as strategies may differ between and among different types of regulation entities.
- A RAC member commented that it support the selection of a limited number of CCI entities (i.e., one or two entities only) to reduce administrative burden and costs.
- DEQ clarified that the fee was authorized by HB3409 and that regulated entities would not contribute more to earn a CCI credit as a result of this fee. DEQ also clarified that the CCI entity fee was estimated using the number of full-time employees (FTEs)DEQ is authorized to hire, as well as the costs of third-party contracts for auditing, engagement, outreach, and other administration for CCI program.
- A RAC member commented that 4.5% was lower than 5% allowed by statute. Good stewardship and administration of programs are undervalued.
- Another RAC member commented that this fee is one that the CCI entity would collect and give to DEQ and is the budget for DEQ staff. It would be helpful to know what work would be for oversight if the CCI is administering the program and how many FTEs there would be. DEQ clarified that they would coordinate with CCI entities to ensure no redundancy. The estimate includes five DEQ FTEs. DEQ will have an independent audit of calculations, reductions, and finances and will partner with the CCI entity in that effort.
- One RAC member said that California's administration fee is 4%, so 4.5% for DEQ's program seems appropriate.

Agenda Item: Public Comment

Sylvia opened the floor for public comment. 14 community members shared public comments.

Public Comments:

- Dale Feik shared that this process seems to follow the lawsuit rather than what is best for the environment. He asked for the RAC to consider Lisa Arkin's comments when finalizing the rule.
- Karen Harrington, Climate Reality Project, shared her support for beginning the project by the end of 2024. She noted the program is substantially changing due to the technicality of what has gone into program design. She asked to maintain an entity that is independent and responsive to community needs and has a CPP requirement that includes the stationary sources of emissions to hold oil and gas industries accountable.
- Ana Molina, Oregon Just Transition Alliance, stated that as the climate worsens, lives are on the line. She asked to keep CCI entities to 501c3 organizations to meet program goals. She asked DEQ to prioritize EJ community needs.
- Nikita Daryanani, Coalition of Communities of Color, strongly supported the restoration of CPP while creating investments for and in EJ communities. She noted vulnerable communities are hit the hardest and emissions need to be curbed. She asked for CCI contribution amounts to be held at the previous CPP levels to achieve intended outcomes and that emission caps and transmissions should be capped at a level that science determines. She noted litigation has lost critical time.
- Rob Foster recognized ATI's critical role in employing Oregonians with high-paying jobs and noted that Oregon is vulnerable to global competition. He requested that the rules recognize metal

manufacturers as EITEs and state that 25,000 tons are enough to opt into the program. He stated that CPP did not accommodate any growth.

- Diane Hodiak, 350 Deschutes, stated that it is important for companies to pay for the damage they have done to the environment and communities. Fossil fuel elimination results in economic and health benefits. She asked for the CPP to not be weakened and to retain the following: require payment for credits, CCI fee by 5%, nonprofits should receive funds, and immediate compliance.
- Nora Lehmann, Families for Climate, shared that many community members were a part of the initial CPP rules and asked for the strongest possible CPP to protect families and for immediate compliance. She shared that 2023 was the hottest year on record and the CPP should hold the largest polluters accountable.
- Jay Clark, Portland Metro Chamber, shared he is in alignment with the goals of the program but has concerns about the economic impact the CCI program will have on ratepayers and employers when trying to restore Portland's economic competitiveness. He stated that there has been a three-year moratorium on taxes and fees, and as-is, the CPP will have impacts on business development in the region. He asked for DEQ to consider options that are mindful of affordability.
- Pat Delaquil, Mobilizing Climate Action Today (MCAT), shared he supports the CPP and asked for early action. He noted that if the program had not been invalidated, this year would have been the first validation period. He stated that it is wrong to reward the party of the lawsuit and asked that if DEQ does provide early credits, the number and baseline be the same as the invalidated program. He asked that credits only be bankable once dissipated.
- Alexis Elias, Columbia Corridor Association (CCA), noted that few countries intertwine carbon reduction with technologies and shared frustration over the failure of climate programs. He urged industry and businesses to meet state climate goals and for the program to be ready in 12 months.
- Dan Kirschner, Northwest Gas Association, thanked the DEQ for creating a collaborative process and regretted that some of the rulemaking has been about tweaking the invalidated program. He asked for CPP to recognize growth as right now it conflicts with growth.
- Alan Journey, Southern Oregon Climate Action Now (SOCAN), shared three problems with the program as infinite economic growth is an illusion: emission intensity targets encourages emissions to increase, that biofuels are not clean, and that DEQ cannot address emissions during a full life cycle analysis.
- Josh Estes, Association of Western Pulp and Paper Workers (AWPPW), supported the rules for covered entities and advocated for policies that prevent shifts. He noted that the rules place risk on regulated entities to shift their climate burden to other parts of the world and encouraged efforts to avoid GHG and job leakage. He noted technologies are not available to meet targets and the elimination of industry would impact rural communities. He asked for a labor voice to be at the table.
- Audrey Lenoard, Columbia Riverkeeper, shared that substantially changing the program is a great disservice. They shared they are against including additional instruments that would flood the market and removing the 501c3 requirement. They shared support for comments on centering meaningful standards for EJ communities.

Director Feldon thanked the members of the public and the RAC members for their participation. She shared that the goal is to make a program that is workable across Oregon, working towards a just transition for frontline communities while businesses can thrive.

Agenda Item: Discuss racial equity or environmental justice impacts

Whitney reviewed the racial equity impacts and environmental justice considerations. Sylvia introduced the following discussion questions for committee consideration:

- *Do you think DEQ has missed anything in the assessment of impacts on racial equity?*
- *Are there any ways DEQ can improve the assessment of impacts on environmental justice communities?*

Questions/comments/discussion:

- A RAC member commented that tribes in Oregon are disproportionately impacted by climate. There should be a 20% set aside for tribes. Coastal and rural communities will also be impacted highly. DEQ should implement consultation quickly.
- Another RAC member commented that coastal communities are also impacted.
- A RAC member commented that the CCI program must be protected, and fossil fuel infrastructure has proposed risks to communities, including trail derailments and gas tank leakages. There is growing evidence of missing and murdered Indigenous women being linked directly to fossil fuel extraction. There are also mental health impacts with the threat of climate catastrophe. This is a just transition that involves everyone in Oregon, it's not social welfare, but bringing us all together to a new economy.
- DEQ clarified that DEQ was not required to use the Governor's EJ Council EJ definition.
- A RAC member encouraged setting workforce goals for CCI investments. EJ communities are most impacted by leakage. Job creation needs to benefit communities, such as women and BIPOC, and ensure adequate training and apprenticeship. RAC member also agreed with tribal set aside.

Agenda Item: Closing comments

Sylvia opened the floor for closing thoughts. Some RAC members and DEQ shared a few closing comments. Colin announced that DEQ would provide more time for comments, requested comments Wednesday, July 10. The meeting adjourned at approximately 4:30 p.m.

Translation or other formats

[Español](#) | [한국어](#) | [繁體中文](#) | [Русский](#) | [Tiếng Việt](#) | [العربية](#)
800-452-4011 | TTY: 711 | deqinfo@deq.oregon.gov

Non-Discrimination Statement

DEQ does not discriminate on the basis of race, color, national origin, disability, age or sex in administration of its programs or activities. Visit DEQ's [Civil Rights and Environmental Justice page](#).