



State of Oregon Department of Environmental Quality

Oregon Environmental Quality Commission Meeting

Nov. 21-22, 2024

Rulemaking Action Item D Climate Protection Program 2024 Rulemaking

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DEQ recommendation to the EQC

The Oregon Department of Environmental Quality recommends the Environmental Quality Commission adopt the proposed rules in Attachments A1 and A2 as part of Chapter 340 of the Oregon Administrative Rules.

Language of Proposed EQC Motion:

“I move that the commission adopt the proposed rules and rule amendments in Attachments A1 and A2 as part of chapter 340 of the Oregon Administrative Rules.”

Introduction

The Oregon Department of Environmental Quality is proposing a climate protection program, including proposed new rules and permanent rule amendments to chapter 340 of the Oregon Administrative Rules. As part of adopting the proposed climate protection program, DEQ is proposing to adopt new rules, chapter 340, Division 273, and proposing corresponding rule amendments to chapter 340, Divisions 12, 215, 216, 253 and 272.

- Climate Protection Program 2024, Division 273
- Enforcement Procedure and Civil Penalties, Division 12
- Air Contaminant Discharge Program, Division 216
- Greenhouse Gas Reporting Program, Division 215
- Oregon Clean Fuels Program, Division 253
- Third-Party Verification, Division 272

Overview

Short summary of proposed rules

The CPP 2024 proposed rules are designed to:

- Significantly reduce greenhouse gas emissions,
- Achieve co-benefits from other air contaminant reductions, and
- Enhance public welfare for Oregon communities, particularly Oregon's environmental justice communities.

The proposed rules establish a program that sets enforceable and declining caps, or limits, on greenhouse gas emissions from fossil fuels used throughout Oregon, including diesel, gasoline, natural gas, and propane. These fossil fuels are used in transportation, residential, commercial and industrial settings. The program is designed to reduce these emissions 50% by 2035 and 90% by 2050, from an average 2017 to 2019 baseline.

The primary mechanism for reducing emissions is the declining caps on emissions. Covered entities subject to the declining caps include local distribution companies (natural gas utilities) and liquid fuels and propane suppliers, collectively referred to as "covered fuel suppliers;" and a subset of stationary air contamination sources defined as emissions-intensive and trade exposed, or EITE, sources and direct natural gas (DNG) sources. Liquid fuels and propane suppliers are the regulated entities for covered emissions from the fossil fuels these entities supply. EITE sources are regulated for covered emissions from natural gas used at their sources, including natural gas supplied by utilities and by direct connection to interstate pipelines, emissions from solid fuels, and industrial process emissions. Natural gas utilities are regulated for covered emissions from natural gas these entities supply, except natural gas supplied to EITE sources. DNG sources are regulated for natural gas supplied by an entity other than a natural gas utility, such as via direct connection to interstate pipeline, emissions from solid fuels, and industrial process emissions.

Each year DEQ will distribute compliance instruments at no cost to these covered entities. A compliance instrument allows a covered entity to emit one ton of covered emissions. As the cap declines, DEQ distributes fewer compliance instruments. DNG sources and EITE sources do not have any compliance obligations for the first compliance period and therefore will only receive compliance instruments from DEQ beginning in the second compliance period.

Except for the first year of the program, the number of compliance instruments DEQ distributes is equal to that year's cap. In 2025, DEQ will distribute a limited number of compliance instruments to reflect emission reductions achieved by fuel suppliers from 2022, 2023 and 2024. Covered entities can trade unused compliance instruments or bank them for future use.

These covered entities can also choose to earn Community Climate Investment, or CCI, credits by contributing funds to DEQ-approved CCI entities. The CCI entities would then invest those funds in projects that reduce greenhouse gas emissions in Oregon, prioritizing projects that benefit Oregon's environmental justice communities.

Covered entities will have to demonstrate compliance after the conclusion of each compliance period, except for EITE and DNG sources for the first compliance period. The first compliance period will be for three years, 2025 through 2027, with the demonstration of compliance in 2028. Subsequent compliance periods are two years long with the second compliance period covering emissions for 2028 through 2029 with a demonstration of compliance in 2030. To demonstrate compliance each covered entity must submit to DEQ one compliance instrument or CCI credit, subject to limitations, equivalent to the entity's total covered emissions.

CPP 2024 proposed rules no longer include a best available emissions reduction, or BAER, approach to regulate additional industrial emissions, not covered by the declining cap, at some stationary air contamination sources. Based on public comments received, DEQ has determined it will be more effective for sources and DEQ to regulate all covered emission at EITE and DNG sources under the emissions cap, as described above.

Affected parties

The following parties will be directly affected by the proposed rules:

- Fuel suppliers
 - Suppliers of liquid fuels and propane that exceed certain thresholds of covered emissions.
 - Local natural gas distribution companies.
- Stationary air contamination sources
 - A subset of stationary sources that meet the definition of an EITE source.
 - A subset of stationary sources that meet the definition of a DNG source.

In addition, organizations that qualify and enter into an agreement with DEQ to receive funds as CCI entities for projects that reduce greenhouse gas emissions in Oregon may also be directly affected by the proposed rules.

Effects of this rulemaking on any fees

These proposed rules would establish a new fee. The proposed rules would establish a CCI fee of 4.5% on all CCI contributions from covered fuel suppliers received by a CCI entity. DEQ would use funds from this fee for administration and oversight, including requirements for internal and external auditing.

Fiscal impacts of this rulemaking

DEQ has determined that these proposed rules would have fiscal impacts. These impacts are discussed below, based on information, data, and resources available to DEQ.

Key changes in the final proposed rules

Changes from draft rules in Notice of Proposed Rulemaking

Though not a comprehensive list of all edits, this section summarizes key changes in the proposed rules made in response to public comment and feedback from the Environmental Quality Commission.

Changes in how industrial emissions are regulated: replacing BAER

DEQ is no longer proposing to use a site-specific best available emission reduction approach, previously referred to as BAER, for the regulation of greenhouse gas emissions at industrial sources. Instead, DNG sources, subject to an emissions applicability threshold, will be regulated for covered emissions. Covered emissions for DNG sources include process emissions, emissions from solid fuels, and emissions from natural gas supplied by an entity other than a utility, for example gas supplied by direct connection to an interstate pipeline. As in the Notice of Proposed Rulemaking, EITE sources will be directly regulated for all emissions from natural gas, solid fuels, and all process emissions. With this proposed change all emissions for EITE and DNG sources will be regulated under the declining emissions cap.

Distribution of compliance instruments for EITE and DNG sources

As with the proposed rule for EITE sources, DEQ staff will work to develop a proposed baseline emissions intensity value for each DNG source for the second and subsequent compliance periods from data provided by each covered entity. DEQ staff anticipate the proposed baseline emissions intensity values would calculate the number of metric tons of carbon dioxide equivalent emitted per unit of applicable product or operational process for each covered entity. DEQ staff would propose initial baseline values and establish an annual decline from the proposed baseline emission intensity value for these covered entities in a future rulemaking.

Each calendar year DEQ could propose to distribute to each EITE source and to each DNG source compliance instruments from the annual cap equivalent to the applicable emission intensity target times the number of applicable units using emissions and data from the previous calendar year. DEQ intends to develop baseline carbon emissions intensity values and the annual declines in an upcoming rulemaking. If DEQ is unable to develop baseline emissions intensity values in a subsequent rulemaking, EITE and DNG sources would still be subject to declining emission targets applied to average covered emissions for 2022 and 2023 starting in the second compliance period.

In designing the CPP 2024, DEQ aims to significantly reduce emissions by accelerating the transition from fossil fuels to cleaner alternatives and supporting investments in industrial decarbonization strategies. Key program considerations include minimizing costs to business and consumers by supporting sustainable economic health, avoiding the potential leakage of emissions and relocation of regulated facilities to other

jurisdictions without climate pollution policies, and promoting an equitable transition across Oregon. While the BAER approach allowed for a site-specific approach to industrial emissions to reduce potential leakage, DEQ determined declining carbon emissions intensity values over time better balances production needs while incentivizing industrial decarbonization in Oregon. Direct regulation of EITE and DNG sources also means a greater scope of emissions will be subject to the mandatory declining emissions cap over time. For example, emissions from natural gas supplied by connection to an interstate pipeline would be covered under the cap.

EITE and DNG sources exempt from compliance obligations in first compliance period

DEQ is proposing to exempt both EITE and DNG sources from compliance obligations for the first compliance period to allow time to develop declining carbon emission intensity values for these sources. In the Notice of Proposed Rulemaking, DEQ proposed a simplified approach to distribute compliance instruments to each EITE source in the first compliance period, equivalent to 100% of recent emissions until DEQ could develop the carbon emissions intensity baselines. DEQ is proposing this change in response to comments received, including a study prepared on behalf of several large industrial sources that indicated EITE compliance costs declined materially once carbon emission intensity baselines were implemented. If DEQ is not able to establish the carbon emission intensity baselines and declining targets for the second compliance period, these entities will still have compliance obligations for that period as provided in the proposed rules.

While this proposed change means that a small percentage of emissions from natural gas supplied by natural gas utilities will not be regulated for the first compliance period, these emissions will be regulated in the second compliance period, along with additional emission sources under the declining caps.

First compliance period extended to three years

DEQ considered different lengths for the compliance periods and determined multi-year compliance periods are important for compliance flexibility and cost containment. DEQ also notes that shorter compliance periods provide better incentives for, and more regulatory certainty to achieve, emission reductions and will aid in establishing a more robust and navigable market for compliance instruments. For these reasons, DEQ proposed a two-year compliance period in the Notice of Proposed Rulemaking.

DEQ continues to support these positions but recognizes that developing carbon intensity emission values for dozens of EITE and DNG sources is a complex process that will require considerable time, resources, and effort by DEQ along with considerable engagement with these sources, and other stakeholders. DEQ is proposing to add one year to the first compliance period to allow more time and new resources to develop the carbon emission intensity baselines and reduction targets. DEQ has also determined that three-year compliance periods will give additional compliance flexibility to all covered entities in the first compliance period. DEQ notes

that if DEQ is unable to develop these carbon emission intensity targets for EITE and DNG sources before the beginning of 2028, all covered entities would have compliance obligations for each two-year compliance period thereafter.

Monitoring natural gas utility rates

DEQ received thousands of comments supporting climate action, stressing the importance of reinstatement of a climate protection program and immediate significant emission reductions from fossil fuels. DEQ also received thousands of comments concerned about potential impacts to natural gas rates and customer energy bills due to the proposed CPP 2024. DEQ is proposing a program with considerable compliance flexibility with tools to support the transition to cleaner fuels in environmental justice communities least able to benefit from clean energy alternatives and to help mitigate abrupt changes in energy costs.

Demand response, increased electrification, increased biomethane, hydrogen, and future technologies can all drive down demand for natural gas over time. DEQ however recognizes the concerns over potential impacts to natural gas rates and customer bills. DEQ also recognizes that the limited availability of biomethane (relative to other biofuels) means that there is a greater potential for price impacts.

The proposed rules in the Notice of Proposed Rulemaking already required that DEQ request information from the Oregon Public Utility Commission on changes to customer rates that may be attributable to a utility's compliance costs for CPP 2024. If DEQ determines customer rates increased or are projected to change significantly due to these compliance costs, DEQ would consider recommending rule changes.

DEQ has added the requirement that DEQ request this information at least once per compliance period. The rule proposal would also direct DEQ to consider both existing and projected natural gas rates to determine what is attributable to a utility's costs to comply with CPP 2024. This assessment is forward looking as DEQ would consider information from the PUC on a utility's current and projected costs to comply with CPP 2024. If DEQ were to determine that the rates would significantly increase, when compared over a similar timeframe to neighboring states with enforceable and declining limits on greenhouse gas emissions from natural gas, DEQ could recommend and implement changes in advance.

Community Climate Investments

DEQ is not proposing significant changes to the CCI component of CPP from the Notice of Proposed Rulemaking. The final proposed rules further clarify that emission reduction projects eligible for CCIs include projects in the transportation, industrial, residential, and commercial sectors. DEQ is requiring that any entity applying for consideration as a CCI entity describe its, and any subcontractors', experience implementing decarbonization projects in the transportation, industrial, residential and commercial sectors. DEQ also made changes to ensure CCI entities' annual reports provide DEQ with the needed information for DEQ to compile the first CCI report for the EQC, and

subsequent reports every two years. DEQ is also proposing to allow for limited banking of CCI credits to provide more flexibility to regulated entities and potentially further reduce compliance costs.

Additional background on CPP 2024

Climate Protection Program 2021 (invalidated by the Court of Appeals)

CPP 2024 proposed rules are informed by the Climate Protection Program 2021 rulemaking and its over 18-month process to develop the initial program, which the EQC adopted in December 2021. It's also informed by two years of DEQ staff, regulated companies, other interested parties, and the public's experience implementing the Climate Protection Program 2021 prior to the Oregon Court of Appeals' invalidation of the rules due to failure to fully comply with notification requirements.

DEQ used a three-phase approach to develop the Climate Protection Program 2021 which was informed by extensive public engagement. Prior to the formal rulemaking process in 2021, DEQ convened two public sessions, followed by seven technical workshops on key program elements and three town halls throughout 2020. Hundreds of people attended these meetings and offered extensive input on how Oregon could implement a greenhouse gas emissions reduction program.

DEQ began the formal rulemaking process at the beginning of 2021 with the 34-member rulemaking advisory committee. The advisory committee included members from potentially regulated businesses, environmental justice and community-based organizations, Tribes, as well as other parties. The advisory committee met seven times from January through July 2021. All meetings were open to the public and included opportunities for public comment. DEQ received over 7,000 comments after the release of the Notice of Proposed Rulemaking in August 2021.

Two years of Climate Protection Program 2021 implementation included program modifications and clarifications adopted by the EQC in November 2023 and December 2023, as part of the Climate 2023 rulemaking. DEQ had convened an Equity Advisory Committee as a key partner for implementing the CCI component of the program, including the selection of a provisional CCI entity. Equity Advisory Committee members included representatives across Oregon, including from Tribes, environmental justice advocates, committed individuals, environmental advocates and academic researchers.

Climate Protection Program 2024 Rulemaking

The primary objectives of the CPP 2024 rulemaking are to:

- Establish a program to limit greenhouse gas emissions from significant sources in Oregon.
- Set an enforceable and declining limit, or cap, on greenhouse gas emissions from fossil fuels used in Oregon, including diesel, gasoline, natural gas, and propane beginning in 2025.

- Keep Oregon on track to achieve meaningful greenhouse gas emission reductions.
- Prioritize equity by promoting benefits and alleviating burdens for environmental justice communities.
- Include program elements to provide opportunities to increase equitable outcomes, minimize potential costs to business and support a strong economy.

Statement of need

OAR 340, Division 273

What need would the proposed rule address?

The proposed rules would establish a program to reduce greenhouse gas emissions from significant sources in Oregon, after the Oregon Court of Appeals invalidated previously adopted rules to limit greenhouse gas emissions, due to failure to fully comply with rulemaking notification requirements. As demonstrated by the Oregon Climate Action Commission's Oregon Climate Action Roadmap to 2030, the proposed rules will be critical to Oregon's objective of deeply reducing Oregon's greenhouse gas emissions.

Climate change caused by greenhouse gas emissions has detrimental effects on overall public health, safety and welfare of the state of Oregon. Reducing greenhouse gas emissions will avoid the worst effects of climate change including drought, wildfire, heat waves, and sea level rise. These changes have a disproportionate impact on environmental justice communities in Oregon, including coastal and rural communities as well as more urban communities that do not have the resources to adapt to these conditions and are disproportionately burdened by the effects of climate change and air pollution.

Transitioning from fossil fuels to renewable fuels, such as electricity, renewable diesel, and ethanol can also benefit Oregon's economy by providing new opportunities for producing energy, lowering air contaminants, improving public health in Oregon communities and promoting benefits for environmental justice communities.

How would the proposed rule address the need?

CPP 2024 proposed rules will reduce greenhouse gas emissions from sources in Oregon, achieve co-benefits from reduced emissions of other air contaminants, support a strong statewide economy, and enhance public welfare for Oregon communities, particularly environmental justice communities disproportionately burdened by the effects of climate change and air contamination.

CPP 2024 proposed rule will address this need by:

- Implementing enforceable and declining caps, or limits, on covered emissions for covered fuel suppliers, which includes local distribution companies (natural gas utilities) and liquid fuels and propane suppliers, and covered EITE and DNG sources.
- Supporting reduction of emissions of other air contaminants that harm public health.

- Prioritizing reduction of greenhouse gases and other air contaminants in environmental justice communities disproportionately burdened by the effects of climate change and air contamination.
- Promoting benefits in environmental justice communities.
- Including compliance flexibility options to help covered entities pursue the most cost-effective emission reductions, minimizing potential costs to businesses and consumers. These options include allowing covered entities to meet a portion of their compliance obligations with a voluntary alternative known as CCIs, which are designed to reduce anthropogenic greenhouse gas emissions, including from the use of fossil fuels, in Oregon's communities.

How will DEQ know the rule addressed the need?

With existing and available information reported to DEQ's Greenhouse Gas Reporting Program, DEQ will be able to track over time how the program's covered entities are reducing covered emissions.

DEQ will track covered entities compliance with declining emissions caps for each compliance period with compliance instruments and CCI credits. DEQ will track whether the total number of compliance instruments and CCI credits submitted to DEQ for each individual covered entity is equivalent to their total compliance obligations for that compliance period, and if the total number of compliance instruments and CCI credits submitted to DEQ by all covered entities each compliance period is equal to the total compliance obligations for each period to ensure that emissions are allowable and are declining.

DEQ will track the greenhouse gas emissions reductions achieved through CCI project implementation using reports submitted by approved CCI entities and with the use of internal and external auditors as needed. DEQ will conduct a review of the CCI component of the program approximately every two years to evaluate the greenhouse gas emissions reductions and other air contaminant emissions reductions achieved.

OAR 340, Divisions 12, 215, 216, 253, 272

What need would the proposed rules address?

OAR chapter 340, Division 12 outlines enforcement provisions, violations and the assessment of civil penalties for the CPP 2024. Proposed rule amendments for OAR chapter 340, Division 12 will describe how violations of the CPP 2024 will be classified for enforcement purposes. Proposed rule amendments for OAR chapter 340, Divisions 215, 216, 253 and 272, will ensure that DEQ's greenhouse gas reporting, stationary source permitting, Clean Fuels Program, and greenhouse gas emissions third-party verification program are coordinated with the CPP 2024, OAR chapter 340, Division 273.

How would the proposed rule address the need?

The proposed rules will ensure that necessary cross-references in these other rules divisions are to CPP 2024, OAR 340, Division 273.

How will DEQ know the rule addressed the need?

Affected entities will have clarity on how OAR 340, Division 273 will be implemented and enforced in relation to other DEQ programs.

Federal relationship

ORS 183.332, 468A.327 and OAR 340-011-0029 require DEQ to attempt to adopt rules that correspond with existing equivalent federal laws and rules unless there are reasons not to do so.

The proposed rules will impose requirements that will be different from or in addition to federal requirements. The proposed rules are in addition to federal requirements since there are no federal regulations that require the reduction of greenhouse gas emissions from most of the parties who will be regulated by the proposed rules.

What are the scientific, economic, technological, administrative and other reasons for exceeding applicable federal requirements?

DEQ determined there are scientific, economic, technological and other reasons for exceeding applicable federal requirements in these proposed rules.

Climate change caused by greenhouse gas emissions has detrimental effects on the overall public health, safety and welfare of the people of the state of Oregon, and on the state's economy. Oregon is already experiencing effects such as more frequent and intense wildfires, drought and more frequent heat waves, extended fire seasons, and reduced snowpack that supplies fresh water for rivers, streams, and reservoirs. These changes have a disproportionate impact on environmental justice communities in Oregon, including economic impacts and other impacts on health and quality of life. By reducing greenhouse gas emissions, the CPP 2024 proposed rules are a key tool to help address the worsening economic, health, quality of life and other effects of climate change caused by the use of fossil fuels. Oregon's Climate Action Commission's Roadmap to 2050 report demonstrated how important the CPP 2024 proposed rules will be to reducing greenhouse gas emissions in Oregon.

Transitioning from fossil fuels to renewable fuels, such as electricity and renewable diesel, and reducing the emissions from the use of fossil fuels will also benefit Oregon's economy by providing new opportunities for producing energy, encouraging technological advancements in the energy and energy conservation sectors, and associated economic and job benefits. There are also newer technologies and alternatives that are becoming available that can further reduce greenhouse gas

emissions that result from the use of fuels and energy at lower costs. Reducing greenhouse gas emissions from fossil fuels will also reduce emissions of other air contaminants and improve public health in Oregon communities, particularly environmental justice communities disproportionately impacted by air pollution. Investments to reduce greenhouse gas emissions through the CCI component of the CPP 2024 may also generate associated economic benefits in addition to reducing emissions, particularly in environmental justice communities disproportionately impacted by air pollution.

What alternatives did DEQ consider and why are you not pursuing them?

DEQ considered the following alternatives to what is included in these proposed rules. DEQ did not pursue these alternatives because DEQ determined they are not as effective in achieving the purposes of the CPP 2024 proposed rules.

Covered entities and covered emissions

- DEQ considered regulating every end user of liquid fuels and propane for emissions associated with these fuels instead of placing the point of regulation at the liquid fuels and propane supplier. DEQ is not pursuing this alternative because the GHG Reporting Program does not collect this data and tracking every fuel end user in Oregon would be complex, inefficient, and burdensome for DEQ, small businesses, and individual small users.
- DEQ considered regulating all liquid fuels and propane suppliers at program start instead of using a declining emissions threshold to determine applicability. DEQ did not pursue this alternative because DEQ determined that using a declining emissions threshold for applicability would allow more time for smaller companies to adjust to the program. DEQ also considered using different declining emission thresholds for each compliance period, including 300,000 MTCO_{2e}, 200,000 MTCO_{2e}, 100,000 MTCO_{2e}, 50,000 MTCO_{2e}, 25,000 MTCO_{2e}, and 5,000 MTCO₂. DEQ did not select these alternatives because starting with a threshold of 100,000 MT CO_{2e}, DEQ regulates a smaller number of fuels suppliers responsible for more than 90% of emissions and will cover approximately 99% of these emissions when the threshold declines to 25,000 MTCO_{2e}.
- DEQ considered an alternative where DEQ would use a multi-year emissions average to determine if a covered fuel supplier had reached the applicable emissions threshold instead of using the first year a covered fuel supplier reaches the emissions threshold. DEQ did not pursue this alternative as it delayed the inclusion of covered fuels suppliers and associated emissions reduction while potentially creating uncertainty for covered fuels suppliers.
- DEQ calculates applicability thresholds using aggregate emissions from all related entities with each entity becoming a covered fuel supplier. DEQ considered an alternative where related entities' emissions were not included in

this calculation. DEQ did not pursue this alternative to ensure these emissions would be covered by the program and to prevent related entities from potentially shifting reported emissions to avoid applicability thresholds and compliance obligations.

- Local distribution companies (natural gas utilities) are the point of regulation for emissions from natural gas supplied by utilities, excluding natural gas supplied to EITE sources. DEQ considered several alternatives to the point of regulation for emissions from natural gas supplied by utilities.
 - Natural gas utilities are the points of regulation for the gas they deliver both to their customers and on behalf of customers of marketers that sell the natural gas delivered by the utility. DEQ considered regulating natural gas marketers, but DEQ does not have the necessary data in the GHG Reporting Program to regulate these entities. DEQ also determined it was more efficient for both the regulated community and DEQ to regulate the small number of natural gas utilities.
 - DEQ considered regulating natural gas utilities for emissions associated with all the natural gas they supply, including gas supplied to EITE sources. DEQ is not considering this alternative, because unlike many end users, EITE sources have more resources, and would be expected to have more options for reducing emissions if directly regulated. Direct regulation of EITE sources also allows for DEQ to consider options for further preventing potential emissions and business leakage, the relocation of businesses to jurisdictions outside of Oregon without comparable emission reduction programs. To avoid leakage of emissions and economic activity to other jurisdictions due to these final proposed rules, DEQ is proposing to exempt EITE sources from compliance obligations for the first compliance period. If the rules are adopted, DEQ staff will work to develop a proposed baseline emissions intensity value for EITE sources, which will decline over time for subsequent compliance periods.
- DEQ considered a higher emissions threshold, 25,000 MTCO₂, to determine which stationary air contamination sources would qualify as EITE sources. DEQ determined that a 15,000 MTCO₂ threshold was more applicable and could provide a greater number of sources with the opportunity to pursue cost effective emission reductions.
- DEQ is proposing to regulate EITE sources, for natural gas emissions supplied by natural gas utilities and by an entity other than a utility, and industrial process emissions under the declining emissions cap. DEQ is also proposing to regulate DNG sources, non-EITE sources subject to an emissions applicability threshold for natural gas emissions supplied by an entity other than a natural gas utility and industrial process emissions. DEQ had also considered regulating interstate pipeline emissions and industrial process emissions with a site-specific best

available emissions reduction, BAER, approach. DEQ has determined, based in part on public comments received, that while the BAER approach allows for production growth to be considered in the regulation of these sources, the proposed exemption of EITE and DNG sources from compliance obligations in the first compliance period, along with the development of a declining emissions intensity values over subsequent compliance periods, will better reduce the potential for leakage of business and emissions to jurisdictions outside of Oregon without comparable emission reduction policies, while maintaining significant emissions reductions.

- DEQ decided to include emissions from natural gas supplied by interstate pipeline in covered emissions for DNG sources since DEQ has determined that only stationary sources can be regulated for these emissions. EITE sources are also regulated for emissions from natural gas supplied by direct connection to interstate pipeline.
- DEQ considered an alternative where DEQ would include emissions from aviation fuels in covered emissions for liquid fuels and propane suppliers. DEQ did not pursue this alternative because DEQ does not believe EQC has the appropriate authority to regulate emissions from aviation fuels.
- The primary purpose of this program is to reduce anthropogenic emissions from the use of fossil fuels, such as by combustion or oxidation of these fuels. DEQ has considered different options for limited exceptions to covered emissions under certain circumstances where essentially DEQ can determine that emissions are not released into the atmosphere. DEQ has decided to include an option that excludes from covered emissions, emissions avoided where the use of natural gas results in greenhouse gas emissions captured and stored, if documented by information provided to DEQ under approved protocols.
- DEQ considered an alternative where DEQ would regulate emissions from the electricity sector in CPP. DEQ did not pursue this alternative because DEQ believes that EQC authority does not allow for DEQ to regulate emissions from imported electricity. DEQ determined that this program is not suited to regulate emissions from the electricity sector.

Emission reductions/emissions cap

- DEQ considered alternatives to the baseline for the emission caps reduction trajectory. DEQ uses average 2017-2019 emissions as the baseline for the program emission reduction trajectory. DEQ considered using a 1990 baseline to better align with Oregon's overall emission reductions goals. DEQ did not pursue this alternative because DEQ determined it was best to use the most robust and accurate emissions data, which is emission data collected and third-party verified in the GHG Reporting Program. This GHG Reporting Program emissions data is also used to distribute compliance instruments and to determine compliance obligations under CPP 2024. DEQ also decided to use a three-year baseline

period to average out yearly fluctuations in emissions. DEQ also considered using more recent GHG Reporting data for the baseline but did not use more recent data because of the pandemic in 2020 and 2021 and the implementation of an emissions reduction program in 2022 and 2023.

- DEQ considered alternatives to the 90% emission reduction trajectory by 2050 and 50% reduction by 2035. DEQ considered an 80% reduction by 2050 with a 45% reduction by 2035. DEQ did not pursue these alternatives because DEQ determined it was important to implement a climate mitigation program for fossil fuels that aligned with Oregon's overall goals for emissions reductions including interim targets and to better align the emission reduction trajectory with the more recent scientific data on the emissions reductions needed to avert the worst impacts of climate change.

Definition of environmental justice communities

- DEQ considered an alternative definition for environmental justice communities based on HB 2021 (Clean Energy Targets). Though very similar, DEQ decided to use the same definition as used by the Environmental Justice Council which identified all the same defined communities as in the Clean Energy Targets definition plus a few more.

Compliance flexibility mechanisms

Trading of compliance instruments

- DEQ considered an alternative where DEQ would limit the trading of compliance instruments. While placing limits on trading can incent more onsite emission reductions, this is less applicable to the covered fuel suppliers and trading allows regulated entities to collectively find the lowest-cost emissions reduction opportunities.

Banking of compliance instruments

- DEQ considered an alternative that would limit the banking of compliance instruments. DEQ is not pursuing this alternative, except for the limited use of holding limits, because unrestricted banking of compliance instruments provides regulated parties with more compliance flexibility and cost containment options particularly as it become more costly to reduce emissions as the cap declines. Additionally, banking of compliance instruments does not change the total amount of emissions reductions and incents earlier emission reductions.

Compliance instruments holding limit reduction

- DEQ considered not imposing any holding limits on liquid fuels and propane suppliers. DEQ also considered imposing holding limits on other covered entities that receive compliance instruments. DEQ determined banking compliance instruments is an important flexibility mechanism, but imposing holding limits on liquid fuels and propane suppliers could be an important tool to support liquidity,

the availability of compliance instruments in the market when needed, and to prevent potential manipulation. DEQ determined holding limits were only needed for liquid fuels and propane suppliers because these covered entities are regulated for the majority of covered emissions, representing a greater share of the overall compliance instrument market.

- DEQ considered setting the holding limit as a percentage of the total number of compliance instruments in circulation but is not pursuing this alternative because covered emissions vary among liquid fuels and propane suppliers and vary annually. DEQ determined an individual holding limit reduction using each entity's covered emissions was needed to accommodate these differences.

Compliance periods and demonstration of compliance

- DEQ considered different lengths for the compliance periods, both longer and shorter than the proposed two-year period. DEQ determined that multi-year compliance periods are an important compliance flexibility and cost containment option and are needed. DEQ also recognizes shorter compliance periods will provide better incentives for, and more regulatory certainty to achieve, emission reductions and will aid in establishing a fair and robust market for compliance instruments. A robust compliance instrument market will help regulated entities plan for future compliance and assess different compliance strategies. DEQ also concluded that the development of a declining emissions intensity values was important for the regulation of EITE and DNG sources. For these reasons, DEQ decided that an initial three-year compliance period followed by subsequent two-year compliance periods was the best option to propose.
- DEQ considered an alternative where regulated entities would demonstrate partial compliance or hold a certain percentage of compliance instruments aside each year. The purpose of the partial compliance would be to provide better incentives for, and more regulatory certainty to achieve emission reductions and to aid in establishing a fair and robust market for compliance instruments. Since DEQ distributes all the compliance instruments to regulated entities, DEQ determined a partial compliance would not be effective for achieving these outcomes.
- DEQ considered using an earlier date for the demonstration of compliance but determined that the December following the end of each compliance period was required to allow for the completion of third-party verification and to allow time for liquid fuels and propane suppliers to adjust for any holding limit reductions.

Alternative compliance options

- DEQ considered an alternative where DEQ would only allow regulated entities to demonstrate compliance with compliance instruments and not allow for the use of any alternative compliance options or offsets credits. DEQ determined regulated entities needed additional compliance flexibility and strategies to help with cost containment while still supporting the program's emission reductions

goals and determined that regulated entities would be able to earn CCI credits. Both compliance instruments and CCI credits could be used to demonstrate compliance subject to limitations.

Offsets and CCIs

- DEQ considered allowing for offsets credits (earned by implementing unrelated projects to reduce greenhouse gas emissions) in place of emission reductions for covered entities as an additional compliance flexibility mechanism. DEQ did not pursue this alternative because offsets do not meet some of the key priorities of the program including reducing emissions in Oregon, reducing co-pollutants in Oregon, and promoting benefits for disproportionately impacted environmental justice communities in Oregon.
- With offsets, covered entities select which projects are funded often choosing the project that is the less expensive. DEQ determined that a better way to promote equitable outcomes and to increase benefits to environmental justice communities was for Oregon communities to play a greater role in determining what types of emissions reduction projects would be selected. Depending on program design, offset projects could be located outside Oregon, limiting associated environmental, health and economic benefits. DEQ determined that since covered entities often select offset projects based on price this can also create competition amongst different communities, rather than allowing for multiple communities to benefit from a range of projects.
- DEQ determined that CCI credits are a better option for the CPP than offsets, because CCIs are specifically designed to meet CPP's emission reductions and equity goals. Emission reduction projects must be in Oregon and are prioritized to benefit environmental justice communities. Covered entities do not select projects for investments. Instead DEQ works with third-party CCI entities on selecting emission reduction projects that are of interest to communities. DEQ also partners with an Equity Advisory Committee. DEQ determined that if covered entities choose to contribute funds to earn a CCI credit, those investment could be pooled, spreading projects across multiple communities and investing in projects and communities where the cost to reduce emissions may be more costly, such as rural communities with less infrastructure to transition to cleaner renewable fuels. The single contribution amount supports an equitable distribution of projects by allowing for a variety of projects to be equally supported by CCI funds.
- DEQ has determined that CCI credits could support the emission reduction goals of the CPP if projects funded by CCIs on average reduce anthropogenic greenhouse gas emissions at least one MT CO₂e per CCI credit awarded by DEQ. To ensure these emissions reductions DEQ is implementing a two-year CCI program review.

CCI credits

- DEQ considered alternatives for the percentage of compliance obligations that can be met with CCIs in each compliance period. DEQ considered a lower starting percentage, 5% or 10%, for the first compliance period. DEQ also considered a higher usage percentage, up to 25%, in later compliance periods. DEQ determined that it was appropriate to start with a smaller percentage initially since emissions reductions are not as significant and to increase the percentage as emissions reductions become more difficult over time. DEQ determined that the percentages currently proposed balance compliance flexibility and cost containment options with continuing to incent emission reductions from covered fuel suppliers and EITE sources.
- DEQ considering placing a limit on how many CCI credits a covered entity could be issued. DEQ also considered alternatives where CCI credits could be banked into the future indefinitely, for an additional compliance period or not all. DEQ had concerns with excessive banking of CCI credits in place of reducing emissions and in terms of capacity building for CCI entities. DEQ had also considered the limitation on the usage as a potential way to mitigate excessive banking. DEQ has decided to not allow for unlimited banking of CCI credits. Though covered entities can determine exactly how many CCI credits are needed for each compliance period prior to the demonstration of compliance DEQ will allow banking for one compliance period to provide more flexibility to covered entities.
- DEQ determined the contribution amount to earn a CCI credit on the cost of reducing greenhouse emissions per ton from a range of projects that reduce anthropogenic emissions in the Pacific Northwest and other jurisdictions. DEQ did consider an alternative which would have based the contribution amount to earn a CCI credit on the social cost of carbon and associated project costs. DEQ determined to not pursue this alternative since the goal of the CCI program is to on average reduce emissions one ton for every CCI credit DEQ awards. DEQ determined these project-based reductions would be more reflective of actual costs.

CCI eligible projects

- DEQ considered an alternative where projects that sequestered emissions in forests or working lands would be eligible for CCIs. DEQ did not pursue this alternative because DEQ wanted to prioritize investments in projects that reduce reliance on fossil fuels and support the transition to cleaner, renewable fuels. DEQ believes this will support the emissions reductions from fossil fuel use that CPP will require and potentially help mitigate energy costs as regulated entities pass on compliance costs to consumers.

Third-party CCI entity eligibility

- DEQ considered an alternative in which for-profit entities would also be eligible to be CCI entities. DEQ did not pursue this alternative because DEQ does not believe EQC has the appropriate authority to assess a fee on an approved CCI

entity, if the CCI entity is not a non-profit. The CCI entity fee supports DEQ's capacity to properly administer and oversee the CCI program.

- DEQ considered alternatives where DEQ would specify the number of CCI entities or even potentially only one CCI entity. DEQ did not pursue these alternatives and instead determined it was best to determine the number of CCI entities through the application process.

Distribution of compliance instruments

- DEQ distributes all compliance instruments for free to covered entities. DEQ considered an alternative where DEQ could auction or sell compliance instruments to covered entities. DEQ determined that EQC did not have the authority to sell or auction compliance instruments.

Distribution of compliance instruments to liquid fuels and propane suppliers

- DEQ distributes compliance instruments to these covered entities using historic covered and biofuel emissions. DEQ considered an alternative where DEQ only used covered emissions when determining how many compliance instruments to distribute. DEQ determined including emissions from biofuels in the calculation would help reward covered entities for replacing fossil fuels with biofuels as they comply with the program.
- DEQ uses the most recent year of reported emissions data when distributing compliance instruments to these covered entities. DEQ considered an alternative where DEQ used an average of multiple years of historic emissions and an alternative where DEQ used the most recent third-party verified emissions data. DEQ did not pursue these alternatives because DEQ decided it was important to use the most recent emissions data, the previous calendar year data, in the annual distribution of compliance instruments. Therefore, DEQ first uses emissions data that has not yet been third-party verified since that is what available when distributing compliance instruments. DEQ then adjusts future compliance instrument distributions with the third-party verified data to incorporate the most robust and accurate data available to DEQ.
- DEQ considered an alternative where distributions were based on fixed percentage of proportional overall emissions. DEQ determined that it would have to continue to update the distribution with more recent emissions due to the emissions variability in the sector's emissions, both amongst different covered suppliers and in the annual variability in emissions from year to year for any individual covered fuel supplier.
- DEQ also considered an alternative where the agency distributed the annual compliance instruments prior to June. DEQ did not pursue this alternative because DEQ would not be able to use the most recent data in the distribution of compliance instruments.

- DEQ sets aside a reserve of compliance instruments for liquid fuels and propane suppliers to accommodate new covered fuels supplier or new market entrants. DEQ considered an alternative where the reserve for compliance instruments was larger than what is currently proposed. DEQ did not pursue this alternative to balance holding instruments for potential new entrants with maximizing distribution of compliance instruments to regulated liquid fuels and propane suppliers.
- DEQ pursued an alternative where there was a limit on the number of compliance instruments that could be distributed to a potential new covered fuels supplier from the reserve. DEQ determined that there was no need to limit the individual number as DEQ includes a formula for distributing compliance instruments from the reserve, even when demand for compliance instruments from the reserve is greater than supply.
- DEQ considered not distributing compliance instruments to covered fuels suppliers to reflect “early emissions reductions” achieved in 2022, 2023, and 2024. DEQ also considered alternatives that would distribute these “early reduction” compliance instruments over a longer time horizon or with potential trading limitations. DEQ did not pursue these alternatives, concluding that distributing compliance instruments to reward covered fuel suppliers is appropriate and provides more compliance flexibility and cost containment options for all covered entities.
- DEQ also considered using the same covered and biofuels emissions data for distributing these “early emissions reduction” compliance instruments as the using for the distribution of compliance instruments from the annual caps. DEQ determined these distributions should reward individual entities for increasing biofuel supply in place of fossil fuels and developed a different distribution methodology.
- DEQ considered an alternative where DEQ would use the same distribution methodology for the first year of the program as for later cap years. For the 2025 distribution, DEQ decided to use the higher of either 2023 or 2024 emissions for each individual fuel supplier. This to mitigate that 2024 may be an outlier year for some covered fuel suppliers because there was no climate mitigation program in place for that one year.

Distribution of compliance instruments to natural gas utilities

- DEQ considered an alternative where compliance instruments distributed to natural gas utilities used the previous calendar year’s emissions data. DEQ determined this was not required as there is far less volatility in the natural gas sector as compared to liquid fuels and propane suppliers and a simple distribution method would provide more certainty. DEQ considered distributing compliance instruments using each utility’s historic share of emissions from a 2017-2019 emission baseline, as a percentage of each year’s annual cap. DEQ

has reallocated the share of instruments to the local distribution companies to more evenly spread the benefits of removing EITE sources from their compliance obligations. DEQ concluded that this distribution method will best provide cost containment options for natural gas utilities and better contain potential costs passed on from natural gas utilities to customers.

Distribution of compliance instruments to EITE and DNG sources

- DEQ is proposing to exempt EITE sources from compliance obligations for the first compliance period. EITE sources would not receive compliance instruments for the first compliance period. DEQ considered an alternative which did not exempt EITE sources for the first compliance period and used recent emissions data to determine the number of compliance instruments to distribute to EITE sources. DEQ considered distributing to each EITE source 100% of compliance instruments equal to its average greenhouse gas emissions in 2022 and 2023 for each year of the first compliance period. DEQ also considered using emissions data from 2017, 2018, 2019 to distribute compliance instrument in the first compliance period. DEQ is not pursuing these alternatives to better avoid leakage of emissions and economic activity to other jurisdictions due to these rules, while maintaining significant emission reduction targets and including more covered emissions under a declining emissions cap.
- DEQ is proposing to use a carbon emission intensity formula for distributing compliance instruments to EITE and DNG sources in the second and subsequent compliance periods. DEQ did not select this alternative for the first compliance period because DEQ does not currently have the needed information to calculate an emissions intensity approach for distributing compliance instruments for EITE and DNG sources. DEQ instead proposes to collect and verify this information with EITE and DNG sources and will use that data to propose rule amendments for the second and future compliance periods.

Program review and deferrals

- DEQ considered not including a request for information from the Oregon Public Utility Commission on natural gas rates. DEQ considered not tracking relative changes in average annual statewide retail cost of gasoline, diesel and propane year over year in neighboring jurisdictions. DEQ determined this information is needed to evaluate program impacts on fossil fuel costs and how and when DEQ might consider recommending rule changes in response to any significant impacts.

Rules affected, authorities, supporting documents

Lead division

Office of GHG Programs

Program or activity

Climate Protection Program 2024

Chapter 340 action

Adopt				
340-273-0010	340-273-0020	340-273-0030	340-273-0090	340-273-0100
340-273-0110	340-273-0120	340-273-0130	340-273-0150	340-273-0400
340-273-0410	340-273-0420	340-273-0430	340-273-0440	340-273-0450
340-273-0490	340-273-0500	340-273-0510	340-273-0590	340-273-0810
340-273-0820	340-273-0830	340-273-0890	340-273-0900	340-273-0910
340-273-0920	340-273-0930	340-273-0950	340-273-0960	340-273-0990
340-273-8100	340-273-8110	340-273-8120	340-273-9000	
Amend				
340-012-0054	340-012-0135	340-012-0140	340-215-0040	340-215-0130
340-216-8010	340-253-0600	340-253-1020	340-272-0120	

Statutory Authority - ORS				
468.020	468.130	468A.025	468A.040	468A.050
468A.295				

Statutes Implemented - ORS				
468.020	468.035	468.065	468.130	468A.010
468A.015	468A.025	468A.040	468A.045	468A.050
468A.295				

Legislation

House Bill 3409 (2023) (authorizing CCI entity fee).

Documents relied on for rulemaking

Document title	Document location
Oregon Climate Action Commission's Oregon Climate Action Roadmap to 2030 (Commission Recommendations) March 2023	https://climate.oregon.gov/s/2023-Climate-Action-Roadmap.pdf
Oregon Climate Action Commission's Oregon Climate Action Roadmap to 2030 (Transformational Integrated Greenhouse Gas Emissions Reduction Project Report) March 2023	https://climate.oregon.gov/s/2023-TIGHGER-Project-Report.pdf
ICF study on program options to reduce greenhouse gas emissions for DEQ	https://www.oregon.gov/deq/ghgp/Pages/modelingstudy.aspx
Greenhouse Gas Emissions Program 2021 Rulemaking (Climate Protection Program 2021) materials	Department of Environmental Quality : Greenhouse Gas Emissions Program 2021 : Rulemaking at DEQ : State of Oregon
Oregon Greenhouse Gas Reporting Program	https://www.oregon.gov/deq/eq/programs/Pages/GHG.aspx
Oregon Clean Fuels Program	https://www.oregon.gov/deq/ghgp/cfp/Pages/default.aspx
Cleaner Air Oregon	https://www.oregon.gov/deq/eq/cao/Pages/default.aspx
Oregon Public Utility Commission Natural Gas Fact Finding, January 2023	NGFF-UM2178-Report.pdf (oregon.gov)
Oregon Environmental Justice Council	Governor of Oregon: Environmental Justice Council Policies: State of Oregon
Oregon DEQ Wildfire Smoke Trends and the Air Quality Index, May 2023	WildfireSmokeTrendsReport.pdf (oregon.gov)
Vivid 2018 Study Carbon Policy Office	https://ormswd2.synergydcs.com/HPRMW/ebDrawer/Record/6685808/File/document
Oregon Health Authority Climate and Health Report 2021-2022	https://www.oregon.gov/oha/PH/HEALTHYENVIRONMENTS/CLIMATECHANGE/Documents/le-105251_23.pdf
2010-2020 Regional Climate and Health Monitoring Report	https://multco-web7-psh-files-usw2.s3-us-west-2.amazonaws.com/s3fs-public/RCHMR_2021Update_Final.pdf
U.S. EPA, 40 Code of Federal Regulations, Part 98, Mandatory Greenhouse Gas Reporting	https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr98_main_02.tpl
InvestigateWest: Mapping Climate Vulnerability	https://www.invw.org/2021/02/24/mapping-climate-vulnerability/
Washington Environmental Health Disparities Map	https://fortress.wa.gov/doh/wtn/WTNIBL/

U.S. EPA PDS and Title V Permitting Guidance for Greenhouse Gases	https://www.epa.gov/sites/production/files/2015-12/documents/ghgpermittingguidance.pdf
U.S. EPA RACT/BACT/LAER Clearinghouse (RBLC)	https://cfpub.epa.gov/RBLC/index.cfm?action=Home.Home&lang=en
California Cap-and-Trade Program	Cap-and-Trade Program California Air Resources Board
Oregon Priority Climate Action Plan for U.S. EPA Climate Pollution Reduction Grant, Feb. 2024	https://www.oregon.gov/deq/ghgp/Documents/CPRG-OregonPCAP.pdf
Oregon Climate Pollution Reduction Implementation Grant Workplan Narrative, Mar 2024	https://www.oregon.gov/deq/ghgp/Documents/cprgImpGrant.pdf
White House Inflation Reduction Act Guidebook	Inflation Reduction Act Guidebook Clean Energy The White House
White House Bipartisan Infrastructure Law Guidebook	Guidebook to the Bipartisan Infrastructure Law Build.gov The White House
Colorado Greenhouse Gas Emissions and Energy Management for Manufacturing 2 (GEMM 2) Rule	Greenhouse Gas Emissions and Energy Management for Manufacturing 2 (GEMM 2) Rule, as approved by the Air Quality Control Commission Department of Public Health & Environment (colorado.gov)
Regional Greenhouse Gas Initiative	https://www.rggi.org/program-overview-and-design/elements
Washington Climate Commitment Act	Climate Commitment Act - Washington State Department of Ecology
Washington Cap and Invest Program	Cap-and-Invest - Washington State Department of Ecology
Climate Action Reserve	http://www.climateactionreserve.org/how/program/

Rules summary

As OAR 166-500-0030(1)(e) requires, the following are included to provide a brief summary of the proposed new rules and existing rules affected by this rulemaking.

OAR chapter 340, division 273

RULE NUMBER	RULE TITLE	EXPLANATION
0010	Purpose and Scope	Describes the purposes of the Climate Protection Program, including to reduce greenhouse gas emissions that cause climate change from sources in Oregon, achieve co-benefits from reduced emissions of other air contaminants, support a strong economy, and enhance public welfare for Oregon communities, particularly environmental justice communities.
0020	Definition	Defines terms relating to this division of rules, including key definitions of “covered entity,” which establishes who is regulated by these rules.
0030	Acronyms	Defines acronyms relating to this division of rules.
0090	Overview of Program Provisions for Covered Entities and CCI Entities	Provides an outline of the program-related rules of this division.
0100	Oregon Climate Protection Program Requirements	Describes general requirements for covered entities.
0110	Covered Entity and Covered Emissions Applicability	Describes the covered DNG sources, covered EITE sources, and covered fuel suppliers to which this division of rules apply and the emissions from those sources that are regulated by these rules.
0120	Changes in Covered Entity Ownership and Changes to Related Entities	Describes covered entity requirements for reporting to DEQ on changes in ownership and changes to related entities.
0130	Cessation of Covered Entity Applicability	Describes the conditions under which a person ceases to be a covered entity.
0150	Covered Entity Permit Requirements	Describes covered entity requirements for obtaining a CPP permit.
0400	Generation of Compliance Instruments	Describes how DEQ generates compliance instruments, each of which authorizes a covered entity to emit one metric ton of carbon dioxide equivalent (MT CO ₂ e) of greenhouse gas emissions. The total amount of compliance instruments DEQ will generate is equal to

		annual emissions caps in Table 2. with the exception of additional compliance instruments for 2025.
0410	Distribution of Compliance Instruments to Emissions-Intensive and Trade-Exposed and Direct Natural Gas Sources	Describes how DEQ will distribute compliance instruments to covered EITE and DNG sources and that these sources are not distributed compliance instruments for the first compliance period.
0420	Distribution of Compliance Instruments to Covered Fuel Suppliers	Describes how DEQ will distribute compliance instruments to covered fuel suppliers.
0430	Holding Compliance Instruments	Describes how a covered entity that is issued or acquires compliance instruments can bank compliance instruments that have not yet been used to demonstrate compliance. Describes how a compliance instrument holding limit reduction is assessed for covered fuels suppliers that are not local distribution companies.
0440	Compliance Periods	Describes a three-year compliance period for the first compliance period followed by two-year compliance periods. The first compliance period includes calendar years 2025,2026 and 2027.
0450	Demonstration of Compliance	Describes how covered entities demonstrate compliance. Covered entities demonstrate compliance once for each compliance period for their total compliance obligations. Covered entities may use compliance instruments or CCI credits, but there is a limit to the percent of its total compliance obligations that can be achieved with CCI credits for each compliance period. DNG and EITE sources do not have any compliance obligations for the first compliance period.
0490	Recordkeeping Requirements Related to Demonstration of Compliance	Describes the recordkeeping requirements for covered entities related to demonstrating compliance.
0500	Trading of Compliance Instruments	Describes requirements for covered entities to be able to trade compliance instruments.
0510	Compliance Instrument Trade Notifications and Process	Describes requirements for covered entities to notify DEQ of trades of compliance instruments.
0590	Recordkeeping Requirements Related to Trading	Describes the recordkeeping requirements for covered entities related to trades.

0810	Application for Community Climate Investment Credits	Describes how covered entities may receive CCI credits from DEQ after contributing funds to one or more CCI entity(ies).
0820	Generation and Distribution of Community Climate Investment Credits	Describes how DEQ will generate and distribute CCI credits to covered entities, including the contribution amount required to earn a CCI credit.
0830	Holding Community Climate Investment Credits	Describes when DEQ would cancel CCI credits distributed to a covered entity and that CCI credits cannot be traded.
0890	Recordkeeping Requirements Related to Community Climate Investment Funds	Describes the recordkeeping requirements for covered entities related to CCIs.
0900	Purposes of Community Climate Investments and Eligible Uses of CCI Funds	Describes the purposes of CCIs, including to achieve reductions of at least one MT CO ₂ e of greenhouse gas emissions per CCI credit distributed by DEQ on average as well as other purposes. CCI funds may only be spent on projects that reduce anthropogenic greenhouse gas emissions in Oregon and for related costs, such as for reporting, oversight, and capacity building.
0910	Application to DEQ for Approval as a Community Climate Investment Entity	Describes the criteria and application requirements for organizations that apply to be CCI entities approved by DEQ.
0920	DEQ Review and Approval of Community Climate Investment Entities and Agreements for Approved CCI Entities	Describes the DEQ process for making CCI entity-related approvals and written agreements, including consultation with the equity advisory committee. The written agreement must be approved before an entity receives final approval as a CCI entity and is authorized to receive CCI funds.
0930	Requirements for Community Climate Investment Entities	Describes the requirements for CCI entities, including financial controls, work plans to propose eligible projects and calculation methodologies that will be used to estimate emission reductions. Work plans must be approved by DEQ prior to a CCI entity beginning work.
0950	Fee for Community Climate Investment Entities	Each Community Climate Investment Entity must pay a fee to DEQ equal to 4.5% of all CCI contributions that the entity receives from covered fuel suppliers to support DEQ's oversight and administration of the CCI program.
0960	Equity Advisory Committee and	Describes the DEQ-appointed equity advisory committee and DEQ's commitment to engage

	Environmental Justice Community Engagement	with environmental justice communities on CCI-related topics.
0990	Recordkeeping Requirements for Community Climate Investment Entities	Describes the recordkeeping requirements for CCI entities.
8100	Program Review	Describes DEQ's program review and reporting to the EQC.
8110	Deferrals	Describes how DEQ may extend reporting or demonstration of compliance deadlines as DEQ deems necessary or appropriate.
8120	Severability	Describes how each provision of this division is severable and that any remaining provisions will continue in full force and effect.
9000	Tables	Describes tables referenced in this division of rules.

OAR chapter 340, division 12

Rule Number	Rule Title	Explanation
340-012-0054	Air Quality Classification of Violations	Establishes classifications of violations of division 273 requirements, as part of adopting a schedule of civil penalties.
340-012-0135	Selected Magnitude Categories	Determines the magnitudes of violations of division 273 requirements, as part of adopting a schedule of civil penalties.
340-012-0140	Determination of Base Penalty	Establishes the base penalty amounts for violations of division 273 requirements, as part of adopting a schedule of civil penalties.

OAR chapter 340, division 215

Rule Number	Rule Title	Explanation
340-215-0040	Greenhouse Gas Registration and Reporting Requirements	Corrects cross-references to OAR chapter 340, division 273.
340-215-0130	Separate Violations	Corrects cross-references and updates for consistency with OAR chapter 340, division 273.

OAR chapter 340, division 216

Rule Number	Rule Title	Explanation
340-216-8010	Table 1 Activities and Sources	Updates table for consistency with OAR chapter 340, division 273.

OAR chapter 340, division 253

Rule Number	Rule Title	Explanation
340-253-0600	Records	Corrects cross-references to OAR chapter 340, division 273.
340-253-1020	Calculating Credits and Deficits	Corrects cross-references to OAR chapter 340, division 273.

OAR chapter 340, division 272

Rule Number	Rule Title	Explanation
340-272-0120	Requirements for Verification of GHG Reporting Program Emissions Data Reports Submitted under OAR Chapter 340, Division 215	Corrects a cross-reference to OAR chapter 340, division 273.

Fee analysis

These proposed rules would establish a new fee on CCI entities. Statutory authority to adopt the proposed fee is provided in ORS 468A.295.

The CPP 2024 proposed rules would not create any new fee or change existing fees for covered sources.

Brief description of proposed fees

Proposed rules would establish a new CCI fee of 4.5% on all CCI contributions from covered fuel suppliers received by a CCI entity. The CCI fee would be paid to DEQ by all approved CCI entities on a biannual basis. The fee would be deposited into the Community Climate Investment Oversight Account at DEQ. Allowable uses of the fee include paying for costs of administering and overseeing those portions of the CPP related to CCIs.

Reasons

New fee created by statute: Section 80 of HB 3409 (2023), now codified in ORS 468A.295, authorizes the EQC to establish a fee up to 5% that is reasonably calculated to cover DEQ's costs of administering and overseeing those portions of the CPP 2024 related to CCIs.

The fee will pay the costs of administering and overseeing those portions of the CCP related to CCIs. As the program is implemented, the fee will support increased DEQ capacity to properly administer and oversee the CCI program.

As the CCI program has yet to be fully implemented, fee trend information is not available. DEQ has used assumptions and information from the advisory committee to determine the proposed fee percentage at 4.5%, with additional proposed language allowing DEQ to lower the fee for a given fee period if it is determined that the lower fee would cover the costs of administering and overseeing those portions of the CPP 2024 related to CCIs.

Fee proposal alternatives considered

DEQ requires a fee to cover the costs of administering and overseeing the CCI program. Different options for structuring the fee were considered. DEQ recommends setting the fee and schedule as proposed. If a fee is not adopted, the lack of funding would hamper DEQ's ability to oversee and administer the CCI program, including the review and approval of CCI entity workplans, annual reports, as well as program oversight, communications, and reporting.

Fee payer

The fee payers include any DEQ approved CCI entities.

Affected party involvement in fee-setting process

There are no CCI entities approved at this time.

Summary of impacts

Fee will support DEQ implementation and oversight of the CCI program and CCI entity, and overall transparency. Fee will also support DEQ communication and sharing resources with the public, environmental justice communities, and interested parties related to the CCI program. Fee will support engagement with environmental justice communities prioritized to benefit from emission reduction projects funded by the CCI program.

Fee payer agreement with fee proposal

There are no approved CCI entities at this time. When a CCI entity is approved by DEQ, the CCI fee will be included in a written agreement between DEQ and the CCI entity, in addition the proposed rules establishing the fee.

Links to supporting documents for proposed fees

Document title	Document location
House Bill 3409 (2023):	https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/HB3409/Enrolled

Estimated DEQ Annual Expenses for Costs Associated with Administering and Overseeing CCI Program:					
	Year 1	Year 2	Year 3	Year 4	Year 5
Personnel (fringe included):	\$1,394,895	\$1,464,639	\$1,537,871	\$1,614,765	\$1,695,503
Materials:	\$50,000	\$52,500	\$55,125	\$57,881	\$60,775
Subcontracted:	\$375,000	\$677,500	\$711,375	\$746,944	\$784,291
Annual Total	\$1,819,895	\$2,194,639	\$2,304,371	\$2,419,590	\$2,540,569

Note: Expenses adjusted annually for 5% inflation

Note: This assumes covered entities choose this optional compliance mechanism

Potential CCI contribution scenarios

Compliance period	Emissions Cap (MTCO _{2e})	Scenario 1	Scenario 2	Scenario 3
2025 (year 1)	26,666,840	\$86,000,559	\$43,000,280	\$0

2026 (year 2)	25,495,506	\$82,223,007	\$41,111,503	\$0
Average	26,081,173	\$84,111,783	\$42,055,891	\$0

Range of percent fees from CCI contributions based on the average of the first compliance period.

CCI Fee %	Scenario 1	Scenario 2	Scenario 3
1.0%	\$841,118	\$420,559	\$0
2.0%	\$1,682,236	\$841,118	\$0
3.0%	\$2,523,353	\$1,261,677	\$0
4.0%	\$3,364,471	\$1,682,236	\$0
4.5%	\$3,785,030	\$1,892,515	\$0
5.0%	\$4,205,589	\$2,102,795	\$0

Scenarios

- Scenario 1: 25% of covered entities choose to demonstrate compliance with 10% Community Climate Investments.
- Scenario 2: 25% of covered entities choose to demonstrate compliance with 5% Community Climate Investments.
- Scenario 3: 0% of covered entities choose to demonstrate compliance with Community Climate Investments.

Assumptions

- CCI contribution is \$129, and will first increase March 1, 2027, by \$1 and then adjusted for inflation.
- CCI contributions will not be made in 2025, while DEQ is getting CCI entity(ies) approved.

How long will the current fee sustain the program?

There are no current fees established for the program. The proposed fee in this rulemaking is intended to pay DEQ's costs in administering and overseeing the CCI program.

Proposed Fees		
Expected change in revenue (+/-)	unknown	0%
Main GF required by statute/rule to fund program	unknown	0%
Proposed fee allows General Fund replacement	\$0	0%
Expected effective date	Jan. 1, 2025	

Transactions and Revenue				
Biennium	Number of transactions	Number of fee payers	Impact on revenue (+/-)	Total revenue (+/-)
Current biennium	0	0	\$0	\$0
Next biennium	unknown	unknown	unknown	unknown

Fee schedule

Fee to be paid biannually to DEQ by any approved CCI entities.

CCI Fee Schedule			
Dates of biannual fee payment to DEQ			
DEQ Invoices CCI Entities	Period covered	Amount of fee	Documentation
February 1 of each year	July 1 – December 31 of previous calendar year	4.5% of all CCI contributions received from covered fuel suppliers (unless DEQ specifies a reduced fee percentage in the invoice)	Report of all CCI contributions received during the fee period
August 1 of each year	January 1 – June 30 of that calendar year	4.5% of all CCI contributions received from covered fuel suppliers (unless DEQ specifies a reduced fee percentage in the invoice)	Report of all CCI contributions received during the fee period

Statement of fiscal and economic impact

Fiscal and economic impact

DEQ has determined that the proposed rules will have fiscal impacts, based on DEQ's analysis of the information, data, and resources available to DEQ. The focus of this statement is the anticipated fiscal impact of the CPP 2024 proposed rules on regulated entities, but also indirect impacts on businesses and consumers in Oregon.

Climate change is impacting Oregon's environment, air, water, and economy. Oregonians are already experiencing the reality of increased wildfire risk as a result of climate change, as well as other extreme impacts. The significant economic losses, negative health impacts, and environmental damage caused by climate change inaction demonstrates the importance of reducing greenhouse gas emissions with regulations such as the CPP 2024 proposed rules. This fiscal impact statement does not attempt to quantify or calculate the costs of climate change in Oregon, or the benefits that the state will realize if climate change is limited relative to recent trends.

The CPP 2024 proposed rules offer various options and flexibility for covered entities to comply such that a given covered entity may reduce its emissions in a way that aligns with its circumstance, perspective, and business needs. The CPP 2024 proposed rules do not mandate the use of any type of fuel or technology. Instead, the proposed program defines a total limit or cap on all covered emissions resulting from the supply of covered fuels for use in Oregon.

DEQ will distribute free compliance instruments to each covered entity for each applicable compliance period. As the total limit, or cap, on greenhouse gas emissions decreases each year, DEQ will distribute fewer compliance instruments accordingly. Covered entities must submit one compliance instrument or CCI credit for every ton of covered emissions for each compliance period. Compliance periods are two years, except for the first compliance period which is three years. There is also no compliance obligations and distribution of compliance instruments for EITE and DNG sources in the first compliance period.

The multi-year compliance period allows time for covered entities to plan for and respond to annual variability in fuel demand. Placing the point of regulation for natural gas at covered EITE sources gives these large stationary sources direct control and options for reducing emissions, thereby lowering potential costs. Direct regulation of EITE sources allows for DEQ to assign a slower and reduced emissions reduction trajectory than applies to other covered entities alleviating potential business and emissions leakage, the relocation of business outside of Oregon to jurisdictions without comparable emission reduction programs. The exemption of EITE and DNG sources from compliance obligations in the first compliance period coupled with transitioning these sources to a compliance instrument allocation method that uses a declining carbon emissions intensity target, is also predicted to further alleviate potential leakage.

Covered entities that need additional compliance instruments beyond what they are allocated can acquire compliance instruments through trading with other covered entities that have excess instruments; they also can bank compliance instruments in one period for use in a subsequent period. In addition to compliance instruments, covered entities can also elect to earn CCI credits by contributing funds to approved CCI entities.

Covered entities are anticipated to meet part of their compliance obligations by replacing or substituting fossil fuels with renewable or lower carbon fuels. In the case of gasoline and diesel fuel suppliers, this could occur by increased use/substitution of renewable and/or lower carbon fuels. In the case of natural gas, this could occur through increased use of biomethane or through substitution of hydrogen. To some degree, covered fuel suppliers are expected to increase prices of fossil fuels to consumers as the compliance instruments allowing them to supply those fuels become scarcer over time. The potential economic impacts of these actions are also discussed in the Public section below.

Several advisory committee members recommended that DEQ update this fiscal impact statement to better reflect the economic benefits of federal investments through the Inflation Reduction Act, which are complementary investments that will lower the costs for regulated entities to comply with the program and generate benefits for Oregon's economy. DEQ does not have the resources or available information to quantify the economic benefits of complementary federal investments, but notes according to forecasting by Goldman Sachs, the Inflation Reduction Act represents a \$3 trillion investment opportunity by 2032, including 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 U.S. Environmental Protection Agency announced in July 2024 that Oregon will receive \$197 million through the Climate Pollution Reduction Grant Program to support measures to reduce greenhouse gas emissions from transportation, buildings, materials, and waste identified in Oregon's Priority Climate Action Plan.

Covered fuel suppliers

Administration, permitting, reporting, and recordkeeping

DEQ is proposing to require covered fuel suppliers to register in DEQ's electronic system, apply for a permit, report information to demonstrate compliance, and retain records of reported information for seven years.

Covered fuel suppliers are already reporting to DEQ's Greenhouse Gas Reporting Program, subject to the Oregon Clean Fuels Program, or both. There would also be on-going costs associated with reporting to demonstrate compliance and retaining records. Since the covered fuel suppliers are already reporting to DEQ they may already have staff available to take on any new reporting requirements. The costs of complying with

the CPP 2024 proposed rules are likely to vary from one entity to another, depending on existing reporting and recordkeeping activities and depending on how each entity chooses to comply with the program requirements.

The CPP 2024 proposed rules recordkeeping requirements may result in additional costs for some covered fuel suppliers if they need to add capacity to their existing systems to retain additional records. Other costs incurred would be in relation to allocating time and resources for demonstrating compliance to DEQ. The use of a two-year compliance period helps to reduce these on-going costs.

Covered fuel suppliers may experience a fiscal impact due to these requirements, but DEQ does not have any specific information to quantify all costs associated with these requirements. EPA has estimated costs to entities for tracking and reporting greenhouse gas emissions in the Regulatory Impact Analysis for the Mandatory Reporting of Greenhouse Gas Emissions, Final Rule (GHG Reporting). EPA has estimated these costs as ranging from \$0 to \$6,854 per year. The higher end of the range is based on labor, recordkeeping, and reporting costs for the relevant industry. DEQ does not have additional information to determine the precise costs and acknowledges that it could be different than as estimated in this report from EPA. During the CPP 2021 rulemaking DEQ received an estimate in a written comment that from a potentially covered fuel supplier suggesting that these costs may range from \$4,000 up to \$40,000 per year. The higher end of the range is based on labor, recordkeeping, and reporting costs for an entity that may need to train new staff to conduct program administration.

Reducing greenhouse gas emissions

DEQ will distribute compliance instruments directly to covered fuel suppliers, without any direct cost paid by the fuel suppliers for the instruments, and those compliance instruments are then used to demonstrate compliance with the program's emissions limits. The number of compliance instruments DEQ distributes each year will decline with the declining caps on emissions. A covered fuel supplier therefore incurs costs related to program compliance if the quantity of compliance instruments distributed by DEQ is insufficient to cover the emissions associated with the volumes of covered fuels that they supply during a compliance period. The declining caps allow covered fuel suppliers time to plan for and implement compliance strategies. The following discusses the costs for a covered fuel supplier to comply with the program for each MT of CO₂e emissions resulting from the use of those fuels in Oregon in excess of the number of compliance instruments the fuel supplier receives from DEQ.

The CPP 2024 proposed rules include several compliance flexibility options to help mitigate costs while achieving emissions reductions. DEQ expects that allowing for varying options for achieving compliance will mitigate the costs of compliance for a given covered fuel supplier, and therefore mitigate the overall costs of the program. Compliance flexibility options include:

- Two-year compliance periods and an initial three-year compliance period to provide covered fuel suppliers with time to implement emissions reduction strategies and helps to better account for weather-related changes to emissions or other annual variability.
- The ability to bank unused compliance instruments into the future can help covered entities achieve compliance in the most cost-effective manner throughout time. If emissions reductions are less costly in early years of the program, a covered entity could reduce emissions early and save unused compliance instruments for use in later years when additional emissions reductions may be more costly. DEQ would expect covered fuel suppliers to choose this compliance option if it makes business sense for the long-term and those early emissions reductions are expected to be lower cost than later emissions reductions.
- The ability to trade compliance instruments allows covered fuel suppliers to achieve the program cap on emissions collectively, which can result in cost savings across the program compared to an approach where each covered fuel supplier must individually achieve the same level of emissions reductions. Trading can allow covered fuel suppliers that are able to reduce emissions cost-effectively or quickly to trade unused instruments with other covered fuel suppliers that require more time to reduce emissions. Covered fuel suppliers will be able to determine the price at which they are willing to trade compliance instruments. Specific prices are therefore likely to vary per trade, but in the aggregate trading allows for a more efficient allocation of resources and promotes cost-effective emissions reductions.
- Option to choose to contribute funds to a CCI entity to earn CCI credits. A covered fuel supplier may choose to use CCI credits for up to 15% of its compliance obligation in the first compliance period, and 20% in each compliance period thereafter. Covered fuel suppliers receive CCI credits from DEQ when they demonstrate that they have contributed funds to a DEQ-approved CCI entity to support implementation of projects that reduce greenhouse gas emissions. Under the proposed rules, the voluntary contribution required to receive one CCI credit begins at \$129 in 2025, stays at \$129 for 2026, and in 2027 increases by \$1 per year, over time. This contribution amount was informed by the likely costs to reduce emissions on average one ton for each CCI credit issued by DEQ. The contribution to receive one CCI credit each year also will be adjusted for inflation, in addition to the \$1 per year increase.

Covered fuel suppliers are more likely to choose the last two options if either is less expensive than the cost to reduce emissions, and the cost of acquiring a compliance instrument via trade may be less than the contribution amount to earn a CCI credit. In any given year, but especially as the program progresses and the caps become lower over time, covered fuel suppliers may use any combination of the above compliance options. These multiple combinations make it difficult to estimate the potential fiscal impacts and DEQ does not have specific information to quantify all costs associated with reducing emissions. DEQ anticipates that any contributions to earn CCI credits may be the highest compliance cost for covered fuel suppliers, particularly in early years of

the program. However, DEQ acknowledges that the program could become more expensive over time as opportunities to reduce emissions become constrained and as the necessary dollar contribution amount to receive a CCI credit increases.

Examples of covered fuel supplier fiscal impact scenario using CCI contributions:

Imagine a covered fuel supplier with baseline annual greenhouse gas emissions of 100,000 MT CO₂e. Assume the supplier receives 95,000 compliance instruments from DEQ for 2026. It would need to either reduce emissions or find a way to comply with the remaining 5,000 MT CO₂e of emissions if it seeks to continue to emit 100,000 MT CO₂e in that year. Since the percentage of compliance instruments the fuel supplier needs to demonstrate compliance is less than 15% of its compliance obligation, the covered fuel supplier could choose to contribute CCI funds to support projects that reduce greenhouse gas emissions, and at \$129 per CCI credit in 2026, the total contribution would be \$645,000 to earn 5,000 CCI credits. Later in the program, the distribution of compliance instruments decreases further, and the allowable usage of CCI credits increases. Now assume the covered fuel supplier receives 80,000 compliance instruments for 2031. If the covered fuel supplier still has 100,000 MT CO₂e of covered emissions, it would need to either reduce emissions or find a way to comply with the remaining 20,000 MT CO₂e if it seeks to emit 100,000 MT CO₂e. Since the percentage of compliance instruments the fuel supplier needs to demonstrate compliance that year is 20% of its compliance obligation, it could again choose to make contributions to earn CCI credits and at \$134 per CCI credit in 2031, and the total contribution would be \$2,680,000 (2024 dollars) to earn 20,000 CCI credits. Alternatively, in any year, the covered fuel supplier may seek a compliance instrument trade at a lower price or may decide to increase prices to reduce emissions.

As the cap continues to decline over time, covered fuel suppliers would receive fewer compliance instruments. If, for example, in the third compliance period, a covered fuel supplier receives fewer compliance instruments than 80% of its baseline emissions, making contributions to earn CCI credits would no longer be sufficient to fully meet its compliance obligation, and so it would need to take actions to reduce emissions by reducing the volume of fuels (through price increases) or increasing the mix of renewable or lower carbon fuels, or it would need to acquire additional compliance instruments through trades.

Covered fuel suppliers may achieve compliance by reducing emissions resulting from fuels usage over time to levels that ensure any compliance instruments they receive from DEQ will cover their compliance obligations. A covered fuel supplier could supply less fossil fuels in favor of more alternatives, such as biofuels and other clean fuels. A covered fuel supplier could also supply less fuel overall to reduce emissions it is responsible for under the program. In this case, that reduced supply could both increase costs to consumers and businesses. Price increases could lead businesses (particularly those that are heavily reliant on natural gas, gasoline, or diesel) to shift operations to outside of Oregon to avoid these costs. There may be other costs associated with choosing to comply by directly reducing emissions, such as for equipment, retrofits,

supplies, labor, increased administration, or other operational impacts. DEQ expects costs or savings will vary over time as technologies emerge, vary by fuel type, and vary for each covered fuel supplier.

As part of the CPP 2021 program development, DEQ contracted with ICF to analyze the macroeconomic impacts of potential program options to implement an emissions cap from the use of fossil fuels in commercial, industrial and residential settings in Oregon. While the assumptions for these modeling scenarios were not identical to these proposed rules, the study included several key program elements, such as significantly declining emission caps on fossil fuel, different points of regulation for natural gas, and the option for covered fuel suppliers to use CCIs, which make this analysis informative for these CPP 2024 proposed rules. As part of the study, ICF evaluated cost ranges for emissions reductions from fuels based on external studies and internal ICF analysis. These ranges, which are discussed below, represented net present value and account for cumulative emissions reductions achieved across the modeled policy scenarios for the CPP 2021 program development and a study period of 2022 through 2050, rather than a cost for a particular snapshot in time.

The costs should not be interpreted as costs per ton of emissions; rather, these are costs per ton of emissions reduced. In addition, the cost estimates included do not represent a potential direct cost to a covered fuel supplier. Different costs may be borne by different parties, depending on different compliance strategies and various policies. This may include fiscal impacts to the covered fuel supplier, pass through costs to its customers, but also may include costs to others, such as an electric utility and its customers, and could also incorporate savings from incentives and government programs.

In the analysis ICF estimated costs to reduce emissions from natural gas may range from \$77 to \$228 (2024 dollars) per metric ton of emissions reduced. These estimated costs are dependent on the strategy chosen from a range of different strategies. The costs estimated here include the cost of equipment (such as for energy efficiency or electrification) and fuel costs, assuming introduction of biomethane into the supply.

In the analysis ICF estimated costs to reduce emissions from fossil fuels other than natural gas ranged from \$61 to \$67 (2024 dollars) per metric ton of emissions reduced. The costs estimated here include the costs of vehicles, such as electric vehicles or alternative fuel vehicles, as well as costs for alternative fuels, assuming they replace emissions from regulated fuels, such as gasoline or diesel. The cost ranges are based on available information, but may be higher or lower, depending on business decisions, technologies advancements, and changes to complementary policies over time. For example, the Oregon Clean Fuels Program is a complementary policy that creates incentives to transition to lower-carbon fuels over time. This may result in reduced costs of biofuels over time, which could in turn reduce the costs of compliance in the proposed CPP 2024.

Enforcement

There are costs related to being involved in an enforcement action that includes correcting the violation and the payment of civil penalties, if assessed. The proposed enforcement rule changes would not have an economic impact on covered entities unless they violate the program rules.

Potential impacts to stationary sources: EITE and DNG sources

Administration, permitting, reporting, and recordkeeping

DEQ is proposing to require covered EITE and DNG sources to apply for a CPP permit, report information to demonstrate compliance, and retain records of reported information for seven years. The costs of complying with the proposed CPP 2024 vary from one entity to another, depending on existing reporting and recordkeeping activities. All stationary sources that would be a covered DNG source or EITE source are already reporting to DEQ's Greenhouse Gas Reporting Program and have DEQ air permitting requirements, and therefore may already have staff available to take on new reporting and permitting requirements. The recordkeeping requirement may result in additional costs for some EITE and DNG sources that do not currently retain records for ten years or if they need to add capacity to their existing systems in to retain additional records required for the proposed CPP 2024.

EITE and DNG sources may experience a fiscal impact due to these requirements, but DEQ does not have any specific information to quantify all costs associated with these requirements. EPA has estimated costs to entities for tracking and reporting greenhouse gas emissions in the Regulatory Impact Analysis for the Mandatory Reporting of Greenhouse Gas Emissions, Final Rule (GHG Reporting). EPA has estimated these costs as ranging from \$0 to \$6,854 per year. The higher end of the range is based on labor, recordkeeping, and reporting costs for the relevant industry. DEQ does not have additional information to determine the precise costs and acknowledges that it could be different than as estimated in this report from EPA. DEQ notes that if the costs were twice as high as the EPA estimates, the costs could range from \$0 to \$16,600 (2024 dollars).

In the Notice of Proposed Rulemaking covered emissions for DNG sources, emissions from natural gas supplied by connection to an interstate pipeline and other industrial emissions, not already covered by other regulated entities, would have been regulated with a site specific best available emissions reduction, BAER, approach. Under the final proposed rules, DNG sources will no longer have costs associated with conducting a BAER assessment.

EITE and DNG sources and reducing greenhouse gas emissions

Covered EITE and DNG sources are proposed to be regulated similar to covered fuels suppliers in that they will be distributed compliance instruments, must demonstrate

compliance by turning in compliance instruments to meet their established compliance obligation in each compliance period, and may use any combination of the compliance options discussed above for covered fuel suppliers. However, unlike covered fuel suppliers, DEQ proposes a different approach to distribute compliance instruments to EITE and DNG sources. The costs of complying with the proposed program will likely vary from one entity to another, depending on the business and the strategies each source adopts to reduce covered emissions to comply with the CPP 2024 requirements.

There could be negative economic effects on a regulated DNG or EITE source if the CPP 2024 proposed rules were to result in curtailed production or closure in response to these requirements. It is possible that operations could shift to an area outside of Oregon that is not subject to this regulation, which is sometimes referred to as leakage of business or emissions. Some CPP 2024 rulemaking advisory committee members noted that this was higher risk for businesses and industries that faced out-of-state competition and had higher energy costs.

Advisory committee members who were representatives for EITE sources commented that EITE sources would prefer to have more direct control over emissions associated with natural gas supplied by utilities, rather than having the utilities subject to requirements to reduce their emissions for their activity. EITE sources commented that being emissions intensive and trade exposed industries would subject them to greater negative economic impacts of the declining emission cap to their industries and work force, and the possible shift of operations to an area outside of Oregon, if the utilities remained the point of regulation. While DEQ does not have the necessary information to assess the costs of reducing greenhouse gas emissions for EITEs, DEQ believes that EITE sources have more resources and ability to control the potential costs of complying with the proposed rules than utilities have. Direct regulation of EITE sources allows for DEQ to more fully consider production at EITE sources and further prevent potential leakage--the potential for businesses to relocate to jurisdictions that do not have comparable emission reduction program. Direct regulation of EITE sources allows for DEQ to assign a slower and reduced emissions reduction trajectory than applies to the proposed rules for other covered entities, which is anticipated to result in a decrease in the fiscal impacts of the proposed rules on EITEs.

DEQ recognizes the potential negative economic impacts of business and job loss that could occur, despite proposed provisions to allow covered entities flexibility. Direct regulation of EITE and DNG sources allows for DEQ to more fully consider production at these sources and further prevent potential leakage. Direct regulation of EITE and DNG sources also allows for DEQ to assign a slower and reduced emissions reduction trajectory than applies to the proposed rules for other covered entities.

During public comment, DEQ received a study prepared by MW Analytics on behalf of the Alliance of Western Energy Consumers, Food Northwest, the Northwest Pulp and Paper Association, Oregon Business and Industry, and the Oregon Forest Industries Council. The study was prepared to evaluate potential cost impacts to customers served by the Oregon's three local distribution companies—as well as analysis of the cost

impacts to EITE sources. This report, herein referred to as MW Analytics study, focused solely on effective cost of natural gas and did not consider other macroeconomic impacts or examine other fossil fuels, such as gasoline or diesel.

The study indicated that EITE sources' compliance costs declined materially once carbon intensity emission baselines were implemented. To further mitigate cost impacts to EITE sources and DNG sources and potentially reduce the potential for the leakage of emissions and businesses DEQ is now proposing to exempt EITE and DNG sources from compliance obligations in the first compliance period. DEQ is also proposing an initial three-year compliance period in part to allow more time to develop carbon emission intensity targets.

Costs to implement strategies that reduce greenhouse gas emissions will vary by strategy, business, and industry. Some example industry types that may be impacted by the CPP 2024 proposed rules include, but are not limited to:

- Cement manufacturing
- Semiconductor and related device manufacturing

As part of CPP 2021 program development, DEQ contracted with ICF to analyze potential program options to implement a declining cap on emissions from the use of fossil fuels in commercial, industrial and residential settings in Oregon. While the assumptions for these modeling scenarios were not identical to these proposed rules, the study included several key program elements, such as significantly declining emission caps on fossil fuel, different point of regulation for natural gas, and the option for covered fuel suppliers to use CCIs, which make this analysis informative for these CPP 2024 proposed rules. As part of the study, ICF assumed some cost ranges to reduce emissions from industrial stationary sources based on external studies. The estimated costs for a given source to reduce greenhouse gas emissions, based on various strategies and industries, ranged from \$57 to \$230 (2024 dollars) per metric ton of emissions reduced. The low estimate is based on EPA's Global Non-CO2 report and may represent some costs to reduce emissions for polystyrene foam product manufacturing. The high estimate is based on the McKinsey and Company marginal cost abatement study and may represent some costs to reduce emissions for cement manufacturing. These costs can be assumed to account for equipment, supplies, labor and increased administration required for businesses to comply. These costs also represent net present value and therefore account for cumulative emissions reductions achieved across a given time period from that study, rather than a cost for a particular snapshot in time. These costs do not represent costs for DNG or EITE sources but might provide context on the potential costs to reduce emissions.

Enforcement

There are costs related to being involved in an enforcement action that includes correcting the violation and the payment of civil penalties, if assessed. The enforcement rule changes would not have an economic impact on covered entities unless they violate the program rules.

Statement of Cost of Compliance

State agencies

DEQ staff will implement the program and provide assistance to covered entities about how to comply with program rules. DEQ staff will need to select Equity Advisory Committee members and provide outreach and assistance to members of the public and organizations interested in the CCI portion of the program. DEQ staff will need to select a CCI entity or entities and provide adequate oversight and administration. Implementing the CPP 2024 proposed rules will require DEQ to collect new data and information from EITE and DNG sources.

Local governments

Some local governments are owners or operators of air permitted facilities. Any local governments that own or operate any potential EITE or DNG sources would experience direct impacts as described for these sources. Otherwise, the CPP 2024 proposed rules do not impose any direct fiscal or economic effects on federal, state, or local agencies or tribal governments. However, federal, state, and local agencies and tribal governments are indirect consumers of fuels and goods. The indirect impacts of the CPP 2024 on government entities will be the same as on other consumers of transportation fuels, natural gas, and propane. See the discussion on the potential impacts to the public below.

Local or Tribal government representatives, such as city or county health staff, planning staff, and other officials, may also be impacted by the need to participate in meetings related to program implementation. This may include time to research and understand potential air quality concerns, program regulations, and time spent attending meetings. DEQ is not able to quantify these fiscal impacts but recognizes that time spent may affect local or tribal government budgets for travel or other expenses.

Public

While the public would not incur any direct fiscal impacts associated with the CPP 2024 proposed rules, DEQ is including a discussion of potential indirect impacts to the public.

DEQ recognizes that as covered entities comply with the program, there will be indirect impacts, both potential costs and benefits, to consumers and businesses throughout Oregon. These impacts will change over time. DEQ does not have the needed information, data, or resources to fully quantify or estimate the potential magnitude of all these indirect impacts.

DEQ recognizes that compliance costs for fuel suppliers likely will be passed on and may disproportionately impact businesses and industries that face out-of-state competition and are more reliant on natural gas. DEQ has not proposed to regulate end users for emissions associated with fossil fuels but has proposed that EITE sources be directly regulated for natural gas emissions so they can better control emission reduction strategies and potential costs. Disproportionate indirect impacts also could be

felt by environmental justice communities that have difficulty transitioning to clean energy sources, and that are less resilient to price impacts. These communities include communities of color, communities experiencing lower incomes, tribal communities, rural communities, coastal communities, communities with limited infrastructure and other communities traditionally underrepresented in public processes and adversely harmed by environmental and health hazards, including seniors, youth and persons with disabilities.

Potential climate change impacts

Climate change caused by greenhouse gas emissions is having detrimental effects on the overall public health, safety and welfare of Oregonians, and there are costs associated with climate inaction. DEQ recognizes the scope of these costs, although this fiscal statement does not quantify the costs and benefits associated with climate change and public welfare.

Greenhouse gas emissions reductions achieved from the CPP 2024 proposed rules that decrease climate change risks could create positive economic benefits and improvements in public welfare statewide. These benefits may include avoidance of future state costs to mitigate or adapt to impacts of climate change, such as the impact of extreme heat and the impacts of severe drought on agricultural or other natural resource sectors. Several advisory committee members comments that DEQ need to include these impacts, but DEQ does not have additional information or resources to estimate the specific magnitude of the costs of climate change inaction in Oregon.

Impacts to consumers and businesses that are not directly regulated

Members of the public and businesses purchase transportation fuels, natural gas and propane, and other goods for their use. The CPP 2024 proposed rules are likely to affect the prices of these commodities as fuel suppliers take actions to comply. Impacts will vary for the residential, commercial, and industrial sectors depending particularly on how intensively people currently use fossil fuels.

Examples of potential impacts may include:

- Fuel costs are likely to change. These may be cost increases or, if clean alternative fuels that reduce emissions are more cost-effective than the fossil fuels they would replace, then the retail fuel prices may decrease. In addition, if businesses experience price changes, they likely will pass on these changes to their customers.
- If a covered fuel supplier acquires compliance instruments by paying for them in a trade, or choosing to earn CCI credits, then these costs likely will be passed on to customers. For example, businesses that are not directly regulated may use fuels, such as natural gas, to power operations. These businesses could see an increase in the cost of fuel as a result of regulation of their fuel suppliers.

- If clean technologies that reduce emissions are less cost-effective than the fuels or existing operations they would replace, then the price of goods for consumers could increase.
- Implementation of CCI projects may reduce costs to some. For example, if CCI credits are used to weatherize a building the heating costs to the occupant may be reduced even if the cost per unit of natural gas or propane used for heating increases.

During the CPP 2021 rulemaking, DEQ received comments that included macro-economic impacts of significantly reducing emissions from fossil fuel used in industrial, residential and commercial settings. carried out by Energy Strategies, LLC and RECON Insights, LLC. While the assumptions used in this analysis are not identical to these proposed rules, key program elements such as the use of CCIs and a significant emissions reduction trajectory, make the cost impacts included in this analysis, adjusted for inflation (2024 dollars), informative for these proposed rules. This analysis projected that the CPP 2021 program would result in higher prices for gasoline, diesel and natural gas. The projected increases were generally greater after 2035. For gasoline, the report stated that "the CPP could add \$0.12 to \$0.43 per gallon to the cost of motor gasoline, between 2025 and 2050", representing a three to seven percent increase in the cost of a gallon of gasoline by 2050. A similar range of potential cost increases was projected for diesel.

As a general comparison, DEQ notes that to date the cost impacts of the Clean Fuels Program have been modest, and that the analyses conducted for the Clean Fuels Program Expansion 2022 rulemaking indicated that the costs of renewable and lower carbon fuels were declining relative to fossil fuels as production volumes, such as for renewable diesel, continues to increase.

DEQ also notes that the CPP 2021 program was in effect for two years before it was invalidated. Though liquid fuels and propane suppliers regulated by that prior program had not yet demonstrated compliance for that program's first three-year compliance period, 2022-2024, as a whole these fuels suppliers were reducing emissions faster than the applicable emissions cap for those years. Those emissions reductions were occurring as the state's economy continued to rebound from the global pandemic, and though DEQ had yet to conduct a program review, there were no immediate obvious shocks to the supply of those fuels in the state.

For natural gas, the Energy Strategies, LLC and RECON Insights, LLC report projected a larger price increase, peaking at just under 60% in 2040, after which time the degree of increase relative to the reference case is projected to decline. DEQ believes that a similar range of cost impacts, adjusted for inflation, could be applicable to CPP 2024.

Potential impacts to Oregon's economy

Price changes will affect the economy as businesses and other consumers adjust to changes in the costs of fuels or goods, as discussed above. Businesses and consumers

able to transition to lower carbon energy sources sooner may realize savings, while those that have difficulty transitioning may experience larger increases in costs.

As part of CPP 2021 program development, DEQ contracted with ICF to analyze the macroeconomic impacts of potential program options to implement an emissions cap from the use of fossil fuels in commercial, industrial and residential settings in Oregon. While the assumptions for these modeling scenarios were not identical to these proposed rules, the study included several key program elements, such as significantly declining emission caps on fossil fuel, different point of regulation for natural gas, and the option for covered fuel suppliers to use CCIs, which make this analysis informative for these CPP 2024 proposed rules.

Across multiple program design scenarios, ICF concluded an emissions reduction program of this type could significantly reduce greenhouse gas emissions while maintaining the overall health of the economy. While changes were small as compared to the size of the economy, the study showed net positive trends for gross state product, income, and jobs. Net employment changes in 2050 were projected between 14,100-19,700 jobs. Net gross state product impacts in 2050 adjusted for inflation were projected between 1,635 to 2,100 (\$Mil)(\$2024) and net income impacts in 2050 were projected between 995 and 1,345(\$Mil)(\$2024). Reduced fuel costs were found to outweigh costs of investments, with the trend increasing over time. This increased personal income and allowed for more spending throughout the economy. Investments in clean transportation were found to result in consumer fuel and energy cost savings.

As noted above, as part of the CPP 2021 development DEQ received comments which included a macroeconomic analysis conducted by Energy Strategies, LLC and RECON Insights Group, LLC on potential CPP impacts. This analysis found potential macroeconomic impacts during the first half of the program to be generally minor, with most significant negative impacts after 2035. This study found different job impacts compared to the ICF study, with the most impacted industries being petroleum and natural gas suppliers as well as certain industries that are more reliant on natural gas, such as chemical, food, and wood products and pulp and paper manufacturing. Despite negative job impacts to certain industries, the broader manufacturing sector overall was shown to have economic gains through 2050. For the CPP 2024 proposed rules, DEQ has proposed for EITE sources to be directly regulated for emissions from natural gas use and to transition to a declining emissions intensity target. DEQ believes this might allow these sources to better manage emission reductions and further mitigate potential business leakage while continuing to support emission reductions in Oregon.

Both the ICF and Energy Strategies, LLC and RECON Insights Group, LLC studies used a contribution amount to earn CCI credits to estimate potential costs for regulated entities, but the reinvestment of CCI funds in the state's economy was also not estimated nor included in these studies. Also, both studies were based on available information and current technology at the time they were prepared. As we have seen in the electricity and renewable fuels sectors, technology will change over the next thirty years. As noted above, technological change will be particularly important in the arena

of natural gas, both in terms of renewable natural gas and hydrogen as alternatives to conventional fossil gas.

Potential positive economic impacts

Members of the public may also see economic benefits related to the creation of new green jobs, including through implementation of approved projects that receive CCI funds. The implementation of these projects may require hiring and training new staff or contractors. DEQ is not able to quantify the fiscal impact of these potential new green jobs.

DEQ does not have sufficient information to quantify the magnitude of specific potential fiscal impacts related to installation of more efficient technology throughout Oregon as a result of the CPP 2024 proposed rules because compliance with the program is not prescriptive. However, there may be positive economic impacts. For example, according to Brennan Borlaug, et al., an electric vehicle may save its owners between \$11,000 and \$14,000 in fuel costs over the expected life of the vehicle, and the US Department of Energy estimates that in Oregon, the per-mile cost to drive an electric vehicle may be roughly one third of the per-mile cost of gasoline. Additionally, in 2016 the American Council for an Energy-Efficient Economy estimated that high-efficiency electric heat pumps could save Oregon consumers approximately \$2,000 to \$3,000 over the systems' lifetimes when compared to gas furnaces. Modeling for the California Energy Commission in 2019 found that electric heat pumps could be approximately 80 percent less expensive to operate than a gas furnace with renewable natural gas.

CCIs may encourage these types of technologies throughout Oregon. The types of projects and communities that may be impacted by this are not yet determined, as DEQ will need to re-establish an Equity Advisory Committee and select a CCI third-party entity or entities. However, a project that improves energy efficiency in low-income households may create economic benefit for those households. This portion of the program also has the opportunity to bring monetized benefits to environmental justice communities, though DEQ is not able to quantify the fiscal impact on project impacts or cost savings related to implementation of projects using CCI funds.

Potential negative economic impacts

The proposed program could affect the public if regulated businesses alter the price of goods and services in response to the cost to comply with the CPP 2024 proposed rules. For example, consumers could experience price increases for fuel such as the cost of a gallon of gasoline at a gas station or the cost of natural gas for a residential or commercial customer. Estimating projected retail prices is complex and relies on several assumptions and policies. It is also important to note that DEQ is not an economic regulator and cannot set requirements for how regulated businesses do or do not alter their retail prices of goods or fuels. DEQ did not estimate impacts to the public on the costs of goods or fuels.

During the CPP 2024 rulemaking advisory committee meetings, utility advisory committee members also provided projected changes to rates and/or customer bill

impacts. These projections make a range of assumptions, including that the utility continues to be the point of regulation for gas supplied to EITE stationary sources. One utility projected estimated monthly percentage bill impact increase compared with current bills for residential customers at 34% and 43% percent for 2025 and 2030, 38% and 48% for commercial customers, and 41% and 51% percent for industrial customers. Another utility projected rate increases for residential and small commercial customers for a normal weather year as 5.2% for compliance period 1, 16.6% for compliance period 2 and 26.9% for residential customers and 6.6%, 20.6% and 32.2% for small commercial customers.

In the public comment period using updated assumptions, this utility projected rate increases as 1.1% in compliance period 1, 6.6% in compliance period 2 and 16.6% in compliance period 3 for residential customers and 1.3%, 8.3% and 20.8% for small commercial customers in compliance periods 1, 2, and 3, respectively. The MW Analytics study projected small initial rate impacts on residential (0.8% in 2025), small commercial (0.9% in 2025) and large commercial customers (1.4% in 2025), but those rates were also predicted to have increased to 50%, 60%, and 90% in 2035.

DEQ is also proposing changes to the distribution of compliance instruments among the natural gas utilities from the Notice of Proposed Rulemaking. DEQ will continue to allocate compliance instruments to EITE sources, and DNG sources, before calculating the number of compliance instruments to distribute to the natural gas utilities. The MW Analytics study estimated no cost impacts to two natural gas utilities for the first two years of the program. The study further highlighted that a change to these utility natural distribution percentages (OAR 340-273-9000 Table 4), which DEQ is now proposing, would allow all three utilities to similarly benefit from having point of regulation for natural gas emissions at EITE sources.

Demand response, increased electrification, increased biomethane, hydrogen, and future technologies can all drive down demand for natural gas over time. DEQ acknowledges that the limited availability of biomethane (relative to renewable transportation fuels) means that there is a greater potential for price impacts and recognize the importance of working with the Oregon Public Utilities Commission.

Recognizing these uncertainties, DEQ will at least once per compliance period, request information from PUC to determine what changes in each utility's proposed or current rates for different customer classes may be attributable to a utility's projected or actual costs of compliance with CPP. If DEQ determines that the rates will significantly increase, when compared over a similar timeframe to neighboring states with limits on greenhouse gas emissions from natural gas, due to a utility's actual costs to comply with CPP, DEQ will recommend to the EQC changes intended to moderate impacts to the affordability of the utility rates. In addition to compliance deadline extensions included in other part of the proposed rules, these changes could include adjustments to future years' caps, changes to the CCI amount, or changes to the allowable usage of CCI credits.

The CPP 2024 proposed rules prioritize the investment of any CCI funds for the benefit of environmental justice communities. By accelerating the transition of residential, commercial, industrial, and transportation-related uses of fossil fuels to lower carbon sources of energy, CCI projects have the potential to reduce potential negative economic impacts from fuel price increases. It is worth noting that none of the studies referred to this section analyzed the potential benefits from reinvestment of CCI funds.

As discussed previously, the proposed program could have negative economic effects on the public if businesses providing jobs and contributing to local economies were to curtail production or close in response to regulatory requirements. Operations could shift to an area outside of Oregon that is not subject to this regulation. DEQ recognizes that employment plays a key role in public health, and that negative economic impacts through job loss could occur despite proposed provisions to allow business flexibility to decrease the chances of business closures or employee layoffs in direct response to regulations and as noted above analysis that determined that a proposed emissions reduction program would increase net jobs. DEQ does not have additional specific information to estimate these costs.

Potential positive health impacts

Environmental justice communities are disproportionately burdened by the effects of climate change, air contamination, and by energy costs. The proposed CPP 2024 is intended to reduce greenhouse gas emissions to address climate change and support reductions of co-pollutants, such as toxic air contaminants and criteria pollutants. Emissions reductions achieved from the program could decrease co-pollutant health risks and create positive economic benefits and improvements in public health and welfare statewide. DEQ does not have specific information to quantify all costs or benefits associated with public welfare.

The proposed CPP 2024 prioritizes the spending of CCI funds on projects that reduce greenhouse gas emissions, reduce other air contaminants emissions, promote benefits for environmental justice communities, and accelerate the transition to lower carbon fuels. As a result, CCI projects may support positive health impacts for Oregon communities. For example, CCI funds may be used to support vehicle electrification, which may reduce exposure to particulate matter for communities near transportation corridors.

DEQ contracted with ICF to analyze the public health impact of potential program options to implement a declining cap on emissions from the use of fossil fuels in commercial, industrial, and residential settings in Oregon. While the assumptions for these modeling scenarios were not identical to these proposed rules, the study included several key program elements, such as significantly declining emission caps on fossil fuel, different point of regulation for natural gas, and the option for covered fuel suppliers to use CCIs, which make this analysis applicable to CPP 2024 proposed rules. Across multiple potential program design scenarios, ICF concluded that programs that sets a declining limit on these emissions could significantly reduce statewide adverse health impacts due to changes in criteria pollutant emissions from on-road mobile

sources and other sources. The cumulative monetized value of public health benefits of a program that started in 2022 to 2050 could be up to \$2.29 billion (2020 dollars). This analysis was a conservative estimate of the potential health benefits, as it did not incorporate all potential benefits. For example, it analyzed reductions in the co-pollutants of particulate matter and its precursors but did not capture the benefits of reductions of other co-pollutants, such as air toxics. The model monetized several health outcomes, such as avoided heart attacks and hospital visits, but did not capture all health outcomes that may be affected by air contamination, did not capture health outcomes related to CCI projects, and did not capture indirect health outcomes, such as adverse health impacts from extreme weather cause by climate change.

Community climate investment entities

Non-profit organizations approved by DEQ to be CCI entities will be authorized to receive funds from covered entities and use those funds to create or expand projects that reduce greenhouse gas emissions. Participation as a CCI entity is voluntary, as are contributions by covered entities to an approved CCI entity.

CCI entities may benefit from the proposed program by an increase in opportunities to participate in work to reduce greenhouse gas emissions and to develop projects that will particularly benefit Oregon environmental justice communities. Project implementation costs incurred would be supported by the CCI funds received from covered fuel suppliers and covered EITE sources, along with administrative and reporting costs related to project implementation.

Large businesses – businesses with more than 50 employees

Based on current Oregon Department of Employment data and Greenhouse Gas Reporting Program data from 2020-2023, DEQ estimates that approximately 84 large businesses may be directly affected by these rules. The impacts described in the Cost of Compliance section above apply to:

- Large businesses that are suppliers of liquid fuels and propane that are subject to the emissions cap requirements may incur costs described in the covered fuel suppliers' subsection above. DEQ estimates there are approximately 41 such businesses.
- Large businesses that are natural gas utilities that are subject to the emissions cap requirements may incur costs described in the covered fuel suppliers' subsection above. DEQ has identified three such businesses.
- Large businesses that are permitted air contamination sources that are DNG sources may incur costs described in the stationary sources' subsection above. DEQ estimates there is approximately one such business.
- Large businesses that are permitted air contamination sources that are EITE sources may incur costs described in the stationary sources' subsection above. DEQ estimates there are approximately 39 such businesses.

Small businesses – businesses with 50 or fewer employees

ORS 183.336 - Cost of compliance effect on small businesses

1. Estimated number of small businesses and types of businesses and industries with small businesses subject to the proposed rule

Based on current Oregon Department of Employment data and Greenhouse Gas Reporting Program data from 2020-2023, DEQ estimates that approximately five small businesses may be directly affected by these rules.

- Covered entities subject to the proposed declining cap on emissions requirements:
 - DEQ estimates that with declining thresholds of applicability over the first nine years of the program, there are approximately five small businesses that may become covered fuel suppliers supplying liquid fuels or propane.
 - There are no small businesses that are natural gas utilities.
 - There are no small businesses that are EITE or DNG sources.

Table 2		
Small business counts by sector and at different thresholds		
Covered Sector	Threshold	Count of Small Businesses
Covered fuel suppliers that are liquid fuels and propane suppliers	Emission greater than or equal to 100,000 MT CO ₂ e (covered beginning 2025)	3
	Emissions greater than or equal to 50,000 MT CO ₂ e and less than 100,000 MT CO ₂ e (covered beginning 2028)	1
	Emissions greater than or equal to 25,000 MT CO ₂ e and less than 50,000 MT CO ₂ e (covered beginning 2030)	1
Covered fuel suppliers that are natural gas utilities	N/A (covered beginning 2025)	0
Covered EITE sources	Emissions greater than or equal to 15,000 MT CO ₂ e (covered beginning 2025, but no compliance obligations prior to 2028)	0
Covered DNG sources	Emission greater than or equal to 15,000 MT CO ₂ e (covered beginning 2025, but not compliance obligations before 2028)	0

2. Projected reporting, recordkeeping and other administrative activities including costs of professional services, required for small businesses to comply with the proposed rule

Costs to small business associated with reporting, recordkeeping and other administrative costs are discussed in the administration, permitting, reporting, and recordkeeping subsections of the covered fuel supplier section above.

3. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule

Costs to small business associated with equipment, supplies, labor and increased administration are discussed in the reducing greenhouse gas emissions subsections of the covered fuel supplier section above.

4. How DEQ involved small businesses in developing this proposed rule

DEQ convened a rulemaking advisory committee that included two membership organizations that represented small businesses. DEQ sent notifications about the rulemaking to potentially impacted companies, including small businesses. DEQ held public comment periods at each of the three advisory committee meetings offering members of the public opportunities to provide comment. After each committee meeting DEQ requested written comment from stakeholders, including small businesses, on the topics discussed.

Documents relied on for fiscal and economic impact

Document title	Document location
Oregon Greenhouse Gas Reporting Program data	https://www.oregon.gov/deq/ghgp/Pages/GHG-Emissions.aspx
ICF Modeling Study on Program Options to Reduce Greenhouse Gas Emissions Summary Report August 2021	https://www.oregon.gov/deq/Regulations/rulemaking/RuleDocuments/GHGCR2021MSsummary.pdf
ICF Modeling Study on Program Options to Reduce Greenhouse Gas Emissions Assumptions, Data Sources, and Methods Report August 2021	https://www.oregon.gov/deq/Regulations/rulemaking/RuleDocuments/GHGCR2021MSMethodReport.pdf
RECON Insights LLC, Energy Strategies LLC, Macroeconomic Impact Analysis Oregon’s Department of Environmental Quality Proposed Climate Protection Program, October 2021	Oregon Department of Environmental Quality 700 NE Multnomah St. Suite 600 Portland OR 97232 https://www.oregon.gov/deq/EQCdocs/121621-AttachmentF_MacroReport.pdf
U.S. Interagency Working Group on Social Cost of Greenhouse Gases Technical Support Document: Social Cost of Carbon, Methane,	https://www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDoc

and Nitrous Oxide Interim Estimates under Executive Order 13990, February 2021	ument_SocialCostofCarbonMethaneNitrousOxide.pdf
EPA Report on the Social Cost of Greenhouse Gases: Estimates Incorporating Recent Scientific Advances, November 2023	https://www.epa.gov/system/files/documents/2023-12/epa_scghg_2023_report_final.pdf
U.S. EPA Global Non-CO2 Greenhouse Gas Emission Projections & Mitigation Potential: 2015-2050, October 2019	https://www.epa.gov/sites/production/files/2019-09/documents/epa_non-co2_greenhouse_gases_rpt-epa430r19010.pdf
McKinsey & Company Decarbonization of industrial sectors: the next frontier, June 2018	https://www.mckinsey.com/~media/mckinsey/business%20functions/sustainability/our%20insights/how%20industry%20can%20move%20toward%20a%20low%20carbon%20future/decarbonization-of-industrial-sectors-the-next-frontier.pdf
Regulatory Impact Analysis for the Mandatory Reporting of Greenhouse Gas Emissions Final Rule (GHG Reporting), EPA, September 2009	https://www.epa.gov/sites/production/files/2015-07/documents/regulatoryimpactanalysisghg.pdf
Oregon Employment Department, 2022 small business statewide data	Employment Department 875 Union Street NE Salem OR 97311
U.S. Department of Commerce, Bureau of Economic Analysis, Gross Domestic Product by State	https://www.bea.gov/data/gdp/gdp-state
America's New Climate Economy: A Comprehensive Guide to the Economic Benefits of Climate Policy in the United States	https://files.wri.org/d8/s3fs-public/americas-new-climate-economy.pdf
Brennan Borlaug, et al., Levelized Cost of Charging Electric Vehicles in the United States, Joule 4, 1470–1485, July 15, 2020	https://www.cell.com/joule/pdfExtended/S2542-4351(20)30231-2
Comparative Energy Use of Residential Gas Furnaces and Electric Heat Pumps	https://www.aceee.org/sites/default/files/publications/researchreports/a1602.pdf
The Challenge of Retail Gas in California's Low-Carbon Future – Technology Options, Customer Costs, and Public Health Benefits of Reducing Natural Gas Use	https://www.energy.ca.gov/resources/publications/energy-commission-publications?combine=CEC-500-2019-055&field_publication_classification_target_id=All&field_publication_program_target_id=All
Oregon Public Utility Commission Docket #: UM 2178, Natural Gas Fact Finding Per EO 20-04 PUC Year One Work Plan, utility modeling and presentations	https://apps.puc.state.or.us/edockets/docket.asp?DocketID=22869
GHG reduction and project cost estimates included in CCI entity application	Oregon Department of Environmental Quality 700 NE Multnomah St. Suite 600 Portland OR 97232

Climate Pollution Reduction Grant - Oregon	https://www.oregon.gov/deq/ghgp/pages/climate-pollution-reduction-planning-grant.aspx
Climate Pollution Reduction Grant – Washington	https://www.commerce.wa.gov/growing-the-economy/energy/infrastructure-investment-and-jobs-act/climate-pollution-reduction-grant-program/
Climate Pollution Reduction Grant – Utah	https://deq.utah.gov/air-quality/bee-hive-emission-reduction-plan
Washington CCA Auction Proceeds Report	https://ecology.wa.gov/air-climate/climate-commitment-act/auction-proceeds
Natural Gas Cost Analysis for the 2024 Climate Protection Plan Proposed Regulations (prepared by MW Analytics)	Oregon Department of Environmental Quality 700 NE Multnomah St. Suite 600 Portland OR 97232

Advisory committee fiscal review

DEQ appointed an advisory committee.

As ORS 183.333 requires, DEQ asked for the committee’s recommendations on:

- Whether the proposed rules would have a fiscal impact,
- The extent of the impact, and
- Whether the proposed rules would have a significant adverse impact on small businesses; if so, then how DEQ can comply with ORS 183.540 reduce that impact.

The committee reviewed the draft fiscal and economic impact statement and documented its recommendations in the June 25 RAC Meeting 3 Summary and Written comments received from advisory members available on the [CPP 2024 rulemaking website](#).

Whether the proposed rules would have a fiscal impact

Committee members agreed with DEQ’s finding that the proposed rules would have a fiscal impact.

The extent of the impact

Several committee members commented that DEQ did not adequately quantify the fiscal impacts of the proposed rules to regulated entities. Committee members also commented that DEQ did not fully evaluate the indirect impacts to businesses and consumers of these fossil fuels, including small businesses. Some committee members recommended that DEQ model the indirect impacts of any increases in natural gas rates due to the proposed rules and any pass-through costs on all small business that use these fuels to better quantify impacts. While DEQ does not have all the data and information required to fully estimate the magnitude of these indirect impacts DEQ has

attempted to include a detailed discussion above in the Public portion of the statement including overall positive and negative impacts to the economy, indirect impacts to consumers and users of these fuels, and public health benefits.

Several committee members commented that one study referenced in this statement, the 2021 ICF study analyzing potential program options for implementing an emissions cap, was flawed in its design and therefore underestimated impacts of an emission reduction program on potentially regulated entities and overestimated benefits to the economy. Some committee members also commented that the study was no longer informative and should not be used for this fiscal impact statement. DEQ refers to two studies on a program to implement an emission cap from 2021 in this statement and finds them both informative. One committee member commented that the fiscal impacts discussed by DEQ require that DEQ implement the program in a stable and predictable manner.

Some committee members recommended that DEQ should contract with consultants to further evaluate the economy-wide impacts of these CPP 2024 proposed rules and any changes that DEQ might make to these proposed rules in response to public comment. DEQ does not have the resources to conduct this type of additional analysis and original research. DEQ has prepared this estimate of the fiscal impacts based on information available to agency staff.

Some committee members representing potentially regulated entities commented that they continue to update internal modeling of cost impacts due to the CPP 2024 proposed rules. DEQ has updated this statement with any additional information submitted by committee members.

Several committee members commented that the statement rightfully acknowledges that directly reducing emissions under the proposed rules has the potential to benefit business and Oregon's economy. Committee members cited decided additional economic analysis indicating that regulatory program could reduce greenhouse gas emissions from fuels and support economies.

Several committee members commented that the statement either did not include or underestimated the costs to Oregon's economy and communities due to climate inaction. Committee members recommended that DEQ update the statement to include these costs. Several committee members also recommended that DEQ update the statement to better reflect the economic benefits of complementary federal investments for reducing emissions in the Inflation Reduction Act. Committee members commented that these complementary investments that will lower compliance costs for regulated entities to comply and generate benefits for Oregon's economy. Committee members also commented that while costs associated with earning CCI credits were discussed in the statement, there was no analysis of the economic benefits the investment of potential funds. DEQ does not have the resources or available information to further quantify the costs of climate inaction, investments of CCIs, or the economic benefits of complementary federal investments, but has made edits to reflect these comments.

Whether the proposed rules would have a significant adverse impact on small businesses

Several committee members stated that the proposed rules would have significant adverse impacts on small businesses in Oregon.

As ORS 183.333 and 183.540 require, the committee considered how DEQ could reduce the rules' fiscal impact on small business. Committee members suggested that allowing liquid and propane fuel suppliers to opt-in to CPP prior to being regulated might be a way to further mitigate small business impacts. Several committee members commented that allowing for the distribution of compliance instruments for early reduction actions without any restrictions or limitation would mitigate cost impacts for small businesses. A committee member also noted that including covered fuels suppliers at the 100,000 MT CO₂e threshold in the distribution of those early reduction credits would mitigate adverse small business impacts. These last two program elements are included in the proposed rules.

DEQ also notes that the proposed rules include several elements to mitigate costs for small businesses, including proposing

- Points of direct regulation and emissions thresholds that will exclude a vast majority of small businesses from being subject to program requirements.
- For the approximately five small businesses that DEQ currently anticipates being covered, the proposed declining threshold for inclusion will delay some small businesses' inclusion and provide more time to plan for emissions reductions and other compliance-related activities. Two of the identified five directly regulated small businesses would not have compliance obligations before 2028.
- A proposed program-wide cap with compliance flexibility options allows each entity several options to comply with the program while mitigating costs.

DEQ expects that allowing for these program features and varying options for achieving compliance will likely mitigate costs and allow covered entities to determine the most cost-effective compliance pathway for their business.

Housing cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel. DEQ determined the proposed rules will have no impact on the supply of housing or land for residential development. The proposed rules will not impact the cost of labor or administration related to such development but could have an effect on development costs because they could indirectly affect the price of materials used for such construction. For example, the indirect impact on the price of materials could occur if covered entities subject to the proposed rules increase fuel prices and if the companies that

manufacture construction materials, then pass through those increased costs in the price of their materials. As another example, the cost of cement used in the development could increase as a result of the proposed program. Because these impacts are indirect and depend on the individual decisions of multiple businesses before resulting in land development cost increases, DEQ is unable to estimate the amount of the increased costs.

Racial equity

ORS 183.335(2)(a)(F) requires state agencies to provide a statement identifying how adoption of this rule will affect racial equity in this state.

Longstanding systemic barriers built into government systems have left communities of color behind in accessing the programs and services that would offset the effects of history. As Oregon's demographics shift over time, governmental policies and practices have both a historic and current role in alleviating racial and other inequities. This statement focuses on how CPP 2024 proposed rules impact racial equity.

The CPP 2024 proposed rules support racial equity by reducing greenhouse gas emissions from sources in Oregon, achieving co-benefits from reduced emissions of other air contaminants, and enhancing public welfare for Oregon communities, particularly environmental justice communities. Environmental justice communities include Oregon's communities of color and tribal communities along with other communities traditionally underrepresented in public processes, and adversely harmed by pollution and environmental and health hazards.

Communities of color in particular are disproportionately impacted by pollution from transportation, as these communities are often located near busy transportation corridors. So, reductions in greenhouse gases emissions and associated co-pollutants would have benefits for racial equity.

The proposed rules include the CCI program. Under the program, regulated entities can choose to meet part of their compliance obligation by contributing funds to approved third-party CCI entities to receive CCI credits. Emission reduction projects funded by these investments will be prioritized to benefit environmental justice communities and to be in and near these communities. The proposed rules include requirements for CCI entities to meaningfully engage and center environmental justice communities in their processes and projects, track and report on all CCI funds and projects, and gain approval from DEQ on approved work plans. Additionally, the proposed rules include an Equity Advisory Committee who will review all deliverables from the CCI entities and provide feedback on those deliverables including work plans, community engagement and capacity building, and best practices.

In the proposed rules, DEQ has significant oversight responsibility for the CCI program, including approving and contracting with third-party CCI entities, establishing and supporting the Equity Advisory Committee, and supporting development of workplans informed by the priorities of a wide range of Oregon communities. This oversight is critical to maintaining the integrity of the program, achieving the predicted reductions, and ensuring transparency to program participants, interested parties, and policy makers. The proposed rules include a fee of up to 4.5% on all investments that would be paid to DEQ by each approved third-party CCI entity. DEQ anticipates this fee to have no negative or positive impact on racial equity.

The CCI program is being developed with extensive engagement with impacted communities to primarily impact environmental and natural resources issues, particularly the impacts on climate change on communities. The proposed rules promote economic and health benefits and reduce burdens in these communities. Investments are prioritized to help ensure all parts of Oregon enjoy the benefits of transitioning away from fossil fuels towards cleaner energy sources. DEQ has received comments that allowing for the one-time distribution of early reduction compliance instruments in 2025 representing emissions reductions that have already occurred, will further delay future additional emissions and associated co-pollutant reductions by fuel suppliers or delay CCI funding of eligible emission reduction projects.

Depending on the specific programs and projects and specific communities supported through the CCIs, there will be various racial equity impacts. A few examples include:

- Reduced energy burden and improve living conditions from weatherization projects.
- Increased access to clean transportation through electric car share and micromobility projects.
- Improved indoor air quality and access to heating and cooling through heat pumps.

The CCI program will be evaluated on a regular schedule, including:

- Review of the number and types of environmental justice communities being served by specific projects.
- Identified gaps in communities being served.
- Review of community engagement methods.
- Evaluation of emission reductions and equity goals with quantitative and qualitative data.
- Recommendation for further program goals and improvements. DEQ will share regular updates with community partners.

The proposed rules also have the potential for a negative indirect racial equity impact. To some degree, covered entities are expected to increase prices of fossil fuels to consumers as the compliance instruments allowing them to supply those fuels become scarcer over time.

DEQ convened a 26-person rules advisory committee representing diverse perspectives of interested parties throughout Oregon, including organizations that can speak to the unique challenges and concerns of Black, Indigenous, and People of Color communities in Oregon.

Environmental justice considerations

Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, culture, education or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies. DEQ is committed to incorporating environmental justice best practices into its programs and decision-making, to ensure all people in Oregon have equitable environmental and public health protections.

Climate change caused by anthropogenic greenhouse gas emissions has detrimental effects on the overall public welfare of the state of Oregon. Reducing greenhouse gas emissions and mitigating climate change will improve the overall public welfare of Oregon. Reducing greenhouse gas emissions will improve the welfare of environmental justice communities, reducing the environmental burden on those communities. The proposed CPP 2024 rules are designed to reduce greenhouse gas emissions from sources in Oregon, achieve co-benefits from reduced emissions of other air contaminants, and enhance public welfare for Oregon communities, particularly environmental justice communities.

The program:

- Requires that covered entities reduce greenhouse gas emissions.
- Supports reduction of emissions of other air contaminants that are not greenhouse gases.
- Prioritizes reduction of greenhouse gases and other air contaminants in environmental justice communities.
- Provides covered entities with compliance options to minimize disproportionate business and consumer economic impacts
- Allows covered entities to comply with the CPP 2024 requirements in part through contributing CCI funds to support projects that reduce greenhouse gas emissions and prioritize benefits for environmental justice communities in Oregon.

Environmental justice communities are communities of color, communities experiencing lower incomes, communities experiencing health inequities, tribal communities, rural communities, remote communities, coastal communities, communities with limited infrastructure and other communities traditionally underrepresented in public processes and adversely harmed by environmental and health hazards, including seniors, youth, and persons with disabilities.

Land use

In adopting new or amended rules, ORS 197.180 and OAR 340-018-0070 require DEQ to determine whether the proposed rules significantly affect land use. If so, DEQ must explain how the proposed rules comply with statewide land-use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR 340 Division 18, DEQ considers that rules affect land use if:

- The statewide land use planning goals specifically refer to the rule or program, or
- The rule or program is reasonably expected to have significant effects on:
- Resources, objects, or areas identified in the statewide planning goals, or
- Present or future land uses identified in acknowledge comprehensive plans

DEQ determined whether the proposed rules involve programs or actions that affect land use by reviewing its Statewide Agency Coordination plan. The plan describes the programs that DEQ determined significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

Goal	Title
5	Natural Resources, Scenic and Historic Areas, and Open Spaces
6	Air, Water and Land Resources Quality
11	Public Facilities and Services
16	Estuarine Resources
19	Ocean Resources

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

Determination

DEQ determined that these proposed rules do not affect land use under OAR 340-018-0030 or DEQ's State Agency Coordination Program.

DEQ determined that these proposed rules are not expected to affect land use because the rules are not reasonably expected to have significant effects on either: (a) resources, objectives or areas identified in the statewide planning goals; or (b) present or future land uses identified in acknowledged comprehensive plans.

The CPP 2024 proposed rules are directed at fuel suppliers and certain stationary sources but are not expected to have significant direct effects on land use. With respect specifically to stationary sources, the proposed rules would be consistent with state land

use law because any stationary sources that will be issued a CPP permit or permit addendum will already have demonstrated land use compliance when they obtained or will obtain their underlying air quality permit. The air quality permit programs require that a new business provide a land use compatibility statement from local government when applying for a permit. This assures that the business has an approved use for the property where it is located. Existing permittees have provided land use compatibility statements, which are on file with DEQ.

DEQ also notes that the proposed regulations, and in particular the requirements directed at fuel suppliers, are consistent with the statewide land use program as follows:

LCDC Goal 12 (Transportation) is: to provide and encourage a safe, convenient and economic transportation system. By creating a program for a planned transition to clean energy for transportation fuels and natural gas, the proposed rules comply with the objectives of Goal 12 to provide an economic transportation system. The planning requirements of Goal 12 and its implementing rules do not apply to the proposed CPP, although local and regional planning to reduce dependence on vehicular travel will support the CPP by reducing demand for transportation fuels.

LCDC Goal 13 (Energy) requires that: "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy * * *." The planning requirements of Goal 13 apply to local and regional land use planning, and not to the proposed CCP rules. By conserving the use of natural gas and encouraging the use of renewable fuels, the proposed CPP rules are supportive of Goal 13.

LCDC Goal 6 (Air, Water and Land Resources Quality) is: "To maintain and improve the quality of the air, water and land resources of the state." The goal provides, in pertinent part, that:

"All waste and process discharges from future development, when combined with such discharges from existing developments shall not threaten to violate, or violate applicable state or federal environmental quality statutes, rules and standards. With respect to the air, water and land resources of the applicable air sheds and river basins described or included in state environmental quality statutes, rules, standards and implementation plans, such discharges shall not:

1. Exceed the carrying capacity of such resources, considering long range needs;
2. Degrade such resources; or
3. Threaten the availability of such resources."

The CPP 2024 proposed rules are consistent with Goal 6. They will set limits on discharges resulting from the use of transportation fuels and natural gas and propane in Oregon that are consistent with the carrying capacity of our environment, and that will help assure the availability of air, water and land resources for future Oregonians.

For these reasons, the CPP 2024 proposed rules comply with applicable LCDC statewide planning goals.

EQC prior involvement

DEQ shared information about this rulemaking with the EQC through an informational item on the March 21, 2024, and Sept. 26-27, 2024, EQC agendas.

Advisory committee

Background

DEQ convened the CPP 2024 rulemaking advisory committee. The 26-member committee included representatives of potentially regulated entities, environmental justice and community-based organizations, tribes and public interest organizations. The committee met in person three times, see the [committee's web page](#).

The committee members were:

CPP 2024 Rules Advisory Committee	
Name	Representing
Abbie Krebsbach	Cascade Natural Gas Corporation
Alex Gallard	Pacific Propane Gas Association
Bill Gaines	Alliance of Western Energy Consumers
Carra Sahler	Green Energy Institute (Lewis & Clark)
Charity Fain	Community Energy Project
Chris Huiard	Space Age
Chris McCabe	Northwest Pulp & Paper Association
Ira Cuello Martinez	Pineros y Campesinos Unidos del Noroeste
Jeremy Price	HF Sinclair
Jessica Spiegel	Western States Petroleum Association
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, Inc.
Nora Apter	Oregon Environmental Council
Pam Barrow	Food Northwest
Patrick Mills	Confederated Tribes of Umatilla Indian Reservation
Ranfis Villatoro	BlueGreen Alliance
Sharla Moffett	Oregon Business & Industry
Shaun Jillions	Avista Utilities
Tim Miller	Oregon Business for Climate
Xitlali Torres	Verde

Meeting notifications

To notify people about the advisory committee's activities DEQ:

- Sent GovDelivery bulletins, a free e-mail subscription service, to the following lists:
 - Rulemaking
 - Air Quality Permits
 - Climate Protection Program
 - DEQ Public Notices
 - Greenhouse Gas Programs
 - Greenhouse Gas Reporting
 - Oregon Clean Fuels Program
 - Third-Party Verification Program
 - Title V Permit Program
- Added advisory committee announcements to [DEQ's calendar of public meetings](#).
- Posted meeting times, agendas, materials, attendance instructions, and information on submitting comments for each meeting on the rulemaking website.

Committee discussions

In addition to the recommendations described under the Statement of Fiscal Impact the committee was asked to discuss and provide input on the CPP 2024 proposed rules regulatory framework, and on the draft Racial Equity impacts and Environmental Justice considerations. Members reviewed, discussed and provided comments on draft rules, program design elements meeting briefs, program goals, discussion questions, and additional materials.

The public was also invited to provide comments at each committee meeting. DEQ received extensive verbal comments and additional written comments. Meeting agendas, meeting materials, meeting summaries for each meeting, and written comments submitted by committee members and the public are available on the [committee's webpage](#).

DEQ's Tribal Liaison notified Tribes of the CPP 2024 rulemaking at the natural resource and culture cluster meetings held between DEQ staff and tribal representatives from the nine federally recognized tribes in Oregon.

Public engagement

Public notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing by:

- On July 29, 2024, Filing notice with the Oregon Secretary of State for publication in the August 2024 Oregon Bulletin.
- Notifying the EPA by mail.
- Posting the Notice, Invitation to Comment and Draft Rules on the [web page for this rulemaking](#).
- Emailing approximately 26,052 interested parties on the following DEQ lists through GovDelivery:
 - Rulemaking.
 - Air Quality Permits.
 - Climate Protection Program.
 - DEQ Public Notices.
 - Greenhouse Gas Programs.
 - Greenhouse Gas Reporting.
 - Oregon Clean Fuels Program.
 - Third-Party Verification Program.
 - Title V Permit Program.
- Emailing interested parties on the following mailing lists:
 - Greenhouse Gas Reporting contact list for reporting entities.
 - Contact list for entities previously regulated under CPP 2021.
- Emailing the following key legislators required under [ORS 183.335](#):
 - Senator Rob Wagner, Senate President.
 - Representative Julie Fahey, House Speaker.
 - Senator Janeen Sollman, Chair of Senate Energy and Environment.
 - Representative John Lively, Chair of House Committee on Climate, Energy and Environment.
- Emailing the Department of Land Conservation and Development required under OAR 340-018-0070(3) and OAR 660-030-0005(2).
- Emailing advisory committee members.
- Posting on the [DEQ event calendar](#).

Public hearings

DEQ held two public hearings, one hosted by DEQ and one by the EQC.

Presiding officers' record

Hearing 1

Date	Aug. 21, 2024
Place	Zoom Webinar
Start Time	4 p.m.
End Time	7:36 p.m.
Presiding Officer	Stephanie Summers, Fuels Sector Reporting Specialist, GHG Reporting Program

Presiding officer:

The presiding officer convened the hearing, summarized procedures for the hearing, and explained that DEQ was recording the hearing. The presiding officer asked people who wanted to present verbal comments if attending by phone or webinar to indicate their intent to present comments. The presiding officer advised all attending parties interested in receiving future information about the rulemaking to sign up for GovDelivery email notices.

As Oregon Administrative Rule 137-001-0030 requires, the presiding officer summarized the content of the rulemaking notice.

There were approximately 216 attendees at the hearing by webinar or telephone and 62 people commented at the hearing.

Hearing 2

Date	Sept. 26, 2024
Place	Zoom Webinar and in-person at the Portland DEQ headquarters. Location: 700 NE Multnomah Street Portland, OR 97232 3rd Floor Conference Room
Start Time	3:20 p.m.
End Time	6:00 p.m.
Presiding Officer	Chair Matt Donegan, EQC

Presiding officer:

The presiding officer convened the hearing, summarized procedures for the hearing, and explained that DEQ was recording the hearing. The presiding officer asked people who wanted to present verbal comments to sign the registration list if in person, or if attending by phone or webinar to indicate their intent to present comments. The presiding officer advised all attending parties interested in receiving future information about the rulemaking to sign up for GovDelivery email notices.

As Oregon Administrative Rule 137-001-0030 requires, the presiding officer summarized the content of the rulemaking notice.

There were approximately 209 attendees at the hearing by webinar, telephone, or in person and 72 people commented orally at the hearing.

Summary of public comments and DEQ responses**Public comment period**

DEQ accepted public comment on the proposed rulemaking from July 30, 2024, until 4 p.m. on Sept. 27, 2024. In response to a request under ORS 183.335(4) that DEQ extend its comment period, DEQ extended its comment deadline by 28 days from Aug. 30, 2024, at 4 p.m. to Sept. 27, 2024, at 4 p.m.

Please see Attachment C for a summary of the 10,124 comments received during the open public comment period, DEQ's responses, and a list of the commenters. Original comments are on file with DEQ, including recordings of the public hearings. Written comments are posted on the [CPP 2024 rulemaking website](#). DEQ has changed the proposed rules in response to comments received.

Implementation

Notification

The proposed rules would become effective upon filing, expected to occur on or about Nov. 22, 2024.

DEQ would notify affected parties by:

- Notifying affected parties by e-mail, including natural gas utilities (local distribution companies), liquid fuels and propane suppliers, EITE and DNG sources
- Updating relevant program webpages with information for affected parties
- Publishing the adopted rules in the Oregon Secretary of State Bulletin

Compliance and enforcement

The proposed rules only include minor edits to Division 12, but DEQ staff will coordinate with the Office of Compliance and Enforcement to implement any needed updates to guidance in alignment with new rules and provide trainings on compliance for affected parties.

Outreach

If the proposed rules are approved, DEQ will:

- Provide assistance on the CPP 2024 and requirements to affected parties.
 - Assistance includes conducting outreach to affected parties and developing educational materials, such as FAQ documents and holding trainings.
- Provide general education to decision makers, interested stakeholders, and the general public about the CPP 2024.
- Conduct outreach to new potential CCI entities.
- Conduct outreach to potential equity advisory committee members.
- Notify agency staff of the program requirements such as permit writers that work with stationary sources that are EITE and DNG sources.

Reporting Systems

DEQ would:

- Train affected parties on using DEQ's Your DEQ Online to meet program requirements
- Develop user guides and provide guidance on how to use Your DEQ Online to meet program requirements, including permitting requirements.
- Engage with stakeholders in the implementation of Your DEQ Online.

Five-year review

Requirement

Oregon law requires DEQ to review new rules within five years after EQC adopts them. The law also exempts some rules from review. DEQ determined whether the rules described in this report are subject to the five-year review. DEQ based its analysis on the law in effect when EQC adopted these rules.

Exemption from five-year rule review

The Administrative Procedures Act exempts some of the proposed rules from the five-year review because the proposed rules would:

- Amend or repeal an existing rule. ORS 183.405(4).

Rules exempt from five-year review				
340-012-0054	340-012-0135	340-012-0140	340-215-0040	340-215-0130
340-216-8010	340-253-0600	340-253-1020	340-272-0120	

Five-year rule review required

No later than five years from adoption, DEQ will review the newly adopted rules for which ORS 183.405 (1) requires review to determine whether:

- The rule has had the intended effect
- The anticipated fiscal impact of the rule was underestimated or overestimated
- Subsequent changes in the law require that the rule be repealed or amended
- There is continued need for the rule.

DEQ will use “available information” to comply with the review requirement allowed under ORS 183.405 (2).

DEQ will provide the five-year rule review report to the advisory committee to comply with ORS 183.405 (3).

Rules subject to five-year review				
340-273-0010	340-273-0020	340-273-0030	340-273-0090	340-273-0100
340-273-0110	340-273-0120	340-273-0130	340-273-0150	340-273-0400
340-273-0410	340-273-0420	340-273-0430	340-273-0440	340-273-0450
340-273-0490	340-273-0500	340-273-0510	340-273-0590	340-273-0810
340-273-0820	340-273-0830	340-273-0890	340-273-0900	340-273-0910
340-273-0920	340-273-0930	340-273-0950	340-273-0960	340-273-0990
340-273-8100	340-273-8110	340-273-8120	340-273-9000	

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](#).