DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 215

GREENHOUSE GAS REPORTING REQUIREMENTS

340-215-0010

Purpose and Scope

(1) The purpose of this division is to establish requirements and procedures for the annual registration and reporting of greenhouse gas emissions to the Department using Department-approved reporting protocols.

(2) Subject to the requirements in this ~~D~~division and ORS 468A.100 through 468A.180, the Lane Regional Air Protection Agency is designated by the Environmental Quality Commission as the Agency to implement this ~~D~~division within its area of jurisdiction. The requirements and procedures contained in this ~~D~~division must be used by the Regional Agency to implement this ~~D~~division unless the Regional Agency adopts superseding rules that are at least as restrictive as this ~~D~~division.

Stat. Auth.: ORS 468.020, ORS 468A.050 & ORS 468A.280
Stats. Implemented: ORS 468 & ORS 468A

340-215-0020

Definitions

The definitions in OAR 340-200-0020 and this rule apply to this division. If the same term is defined in this rule and OAR 340-200-0020, the definition in this rule applies to this division.

(1) “**Biomass**” means non-fossilized and biodegradable organic material originating from plants, animals, and micro-organisms, including products, byproducts, residues and waste from agriculture, forestry, and related industries as well as the non-fossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic matter.

(2) “**Carbon dioxide**” (CO_2) means the chemical compound containing one atom of carbon and two atoms of oxygen.

(3) “**Carbon dioxide equivalent**” (CO_2e) means the quantity of a given greenhouse gas multiplied by a Global Warming Potential factor provided in Department-approved emissions reporting protocols.

~~(4) “**Categorically insignificant activity**” has the meaning given that term in OAR 340-200-0020(19).~~

(4) “**Consumer-owned utility**” means a people’s utility district organized under ORS chapter 261, a municipal utility organized under ORS chapter 225 or an electric cooperative organized under ORS chapter 62.

(5) “**Direct emissions**” means emissions from an air contamination source, including but not limited to fuel combustion activities, process related emissions, and fugitive emissions.

(6) “**Electricity service supplier**” has the meaning given that term in ORS 757.600.

~~(6) “**Fugitive emissions**” has the meaning given that term in OAR 340-200-00550020(a) and (b).~~

(7) “**Global Warming Potential factor**” (GWP) means the radiative forcing impact of one mass-based unit of a given greenhouse gas relative to an equivalent unit of carbon dioxide over a given period of time.

~~(8) “**Greenhouse gas**” means any gas that contributes to anthropogenic global warming including, but not limited to, carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.~~

(~~9~~8) “**Hydrofluorocarbons**” (HFCs) means gaseous chemical compounds containing only hydrogen, carbon and fluorine atoms.

(9) To “**Import**” means to have ownership of electricity or fuel from locations outside of Oregon at the time electricity is brought into this state through transmission equipment or at the time fuel is brought into this state by any means of transport, other than fuel brought into this state in the fuel tank of a vehicle used for the propulsion of the vehicle.

~~(10) “**Indirect emissions**” means emissions associated with the purchase of electricity, heating, cooling or steam.~~

(10) “**Investor-owned utility**” means a utility that sells electricity and that is operated by a corporation with shareholders.

(11) “**Methane**” (CH~~4~~$_4$) means the chemical compound containing one atom of carbon and four atoms of hydrogen.

(12) “**Metric ton, tonne, or metric tonne**” means one metric tonne (1000 kilograms) or 2204.62 pounds.

~~(13) “**Mobile combustion emissions**” means emissions from the combustion of fuels in mobile combustion sources such as cars, trucks, buses, trains, airplanes, ships including dredge vessels, and construction equipment.~~

(~~14~~13) “**Nitrous oxide**” (N_2O) means the chemical compound containing two atoms of nitrogen and one atom of oxygen.

(~~15~~14) “**Perfluorocarbons**” (PFCs) means gaseous chemical compounds containing only carbon and fluorine atoms.

(~~16~~15) “**Sulfur hexafluoride**” (SF_6) means the chemical compound containing one atom of sulfur and six atoms of fluorine.

(16) “**Year**” means calendar year.

Stat. Auth.: ORS 468.020, ORS 468A.050 & ORS 468A.280
Stats. Implemented: ORS 468 & ORS 468A

340-215-0030

Applicability

(1) The greenhouse gases subject to OAR 340-215-0030 through 340-215-0050 are carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(~~1~~2) **Air contamination sources.** ~~Except as provided in section (6) of this rule,~~ (a) In 2010, any owner or operator of a source listed in ~~this section~~paragraphs (A) through (C) below that directly emits 2,500 metric tons or more of carbon dioxide equivalent in 2009, ~~per year of the greenhouse gases listed in section (5) of this rule~~must ~~annually~~ register and report greenhouse gas emissions ~~beginning in 2010~~ regarding greenhouse gases emitted during ~~the previous calendar year~~2009:

(~~a~~A) Any source required to obtain a Title V Operating Permit, including those issued under OAR chapter 340, division 218;

(~~b~~B) Any source required to obtain an Air Contaminant Discharge Permit, including those issued under OAR chapter 340, division 216 and that is referred to by one or more of the selected activities and source types listed in Table 1; ~~[Table not included. See ED. NOTE.]~~

(~~c~~C) Any source required to obtain an Air Contaminant Discharge Permit, including those issued under OAR chapter 340, division 216 that is referred to by the activities and source types listed in Table 1 Part B number ~~75~~83 of OAR chapter 340, division 216, and by the Standard Industrial Classification (SIC) codes in Table 2. ~~[Table not included. See ED. NOTE.]~~

~~(2) Except as provided in section (6) of this rule, any owner or operator of a source listed in this section that emits 2,500 metric tons or more of carbon dioxide equivalent per year of the greenhouse gases listed in section (5) of this rule and is not otherwise subject to registration and reporting under subsections (1)(a), (b) or (c) of this rule must annually register and report greenhouse gas emissions beginning in 2011 regarding greenhouse gases emitted during the previous calendar year:~~

~~(a) Solid waste disposal facilities required to obtain a permit issued under OAR chapter 340, divisions 93 through 96,~~

~~(b) Wastewater treatment facilities required to obtain an individual National Pollutant Discharge Elimination System permit issued under OAR chapter 340, division 45,~~

~~(c) Electric generating units, and~~

~~(d) Electricity and natural gas transmission and distribution systems.~~

(b) Beginning in 2011, any owner or operator of a source listed in paragraphs (A) through (C) below must register and report greenhouse gases directly emitted during the previous year, if the source's direct emissions of carbon dioxide equivalent of greenhouse gases meet or exceed 2,500 metric tons during the previous year. Once a source's direct emissions of carbon dioxide equivalent of greenhouse gases meet or exceed 2,500 metric tons during a year, the owner or operator must annually register and report in each subsequent year, regardless of the amount of the source's direct emissions of greenhouse gases in future years, except as provided in sections (7) and (8).

(A) Any source required to obtain a Title V Operating Permit, including those issued under OAR chapter 340, division 218.

(B) Any source required to obtain an Air Contaminant Discharge Permit, including those issued under OAR chapter 340, division 216.

(C) The following sources not otherwise listed in paragraphs (A) or (B):

(i) Solid waste disposal facilities required to obtain a permit issued under OAR chapter 340, divisions 93 through 96, excluding facilities that did not accept waste during the previous year and which are not required to report greenhouse gas emissions to the United States Environmental Protection Agency pursuant to 40 CFR, Part 98.

(ii) Wastewater treatment facilities required to obtain an individual National Pollutant Discharge Elimination System permit issued under OAR chapter 340, division 45.

(iii) Electric generating units.

(3) **Gasoline, diesel and aircraft fuel dealers.** Beginning in 2011, any person listed in this section that imports, sells or distributes gasoline, diesel or aircraft fuel for use in this state must annually register and report greenhouse gas emissions that will result from the combustion of the gasoline, diesel and aircraft fuel imported, sold and distributed during the previous year:

(a) Any dealer, as that term is defined in ORS 319.010, that is subject to the Oregon Motor Vehicle and Aircraft Fuel Dealer License Tax under OAR chapter 735, division 170;

(b) Any seller, as that term is defined in ORS 319.520, that is subject to the Oregon Use Fuel Tax under OAR chapter 735, division 176; and

(c) Any person that imports, sells or distributes during a year at least 5,500 gallons of gasoline, diesel or aircraft fuel that is for use in this state and that is not subject to the Oregon Motor Vehicle and Aircraft Fuel Dealer License Tax or the Oregon Use Fuel Tax under OAR chapter 735, divisions 170 and 176.

(d) Persons listed in sections OAR 340-215-0030(3)(b) and (c) are not required to register and report greenhouse gas emissions that will result from the combustion of any gasoline, diesel or aircraft fuel reported under this division 215 by dealers described in OAR 340-215-0030(3)(a).

(4) **Natural gas suppliers.** Beginning in 2011, any person that sells or distributes natural gas to end users in this state must annually register and report greenhouse gas emissions that will result from the combustion of the natural gas sold and distributed during the previous year.

(5) **Propane importers.** (a) Beginning in 2011, any person that imports propane for use in this state must annually register and report greenhouse gas emissions that will result from the combustion of the propane imported during the previous year.

(b) Persons that import propane for use in this state are not subject to subsection (5)(a) if:

(A) All imports are brought into this state by delivery trucks with a maximum capacity of 3,500 gallons of propane or less, or

(B) All imports consist of propane in canisters of 20 gallons or less.

(6) **Electricity suppliers.** Beginning in 2011, all investor-owned utilities, electricity service suppliers, consumer-owned utilities, and other persons that import, sell, allocate or distribute electricity to end users in this state must annually register and report greenhouse gas emissions from the generation of the electricity imported, sold, allocated and distributed during the previous year.

~~(3) Any owner or operator of a source required to register and report greenhouse gas emissions annually under this division may voluntarily include additional emissions from the previous calendar year not required under this division, including but not limited to mobile combustion and indirect emissions.~~

~~(4) Any owner or operator of a source not required to register and report greenhouse gas emissions annually under this division may do so voluntarily for emissions from the previous calendar year.~~

~~(5) The greenhouse gases subject to this rule are carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.~~

(~~6~~7) **General deferrals and exemptions.** ~~The Department may defer or exempt specific processes, or categories of sources, that result in greenhouse gas emissions, and types of greenhouse gas emissions from applicability under sections (1) and (2) of this rule upon determining that adequate reporting protocols are not available.~~The Department may defer or exempt specific processes or categories of sources, or specific types of greenhouse gas emissions, from applicability under this division if the Department determines that adequate protocols are not available or that other extenuating circumstances make reporting unfeasible.

(8) **Exemptions for air contamination sources.** (a) An owner or operator is no longer subject to section (2) for a source if the owner or operator submits a notification to the Department pursuant to subsection (8)(b), the owner or operator retains records pursuant to subsection (8)(c), and:

(A) The source's direct emissions are less than 2,500 metric tons of carbon dioxide equivalent of greenhouse gases per year for three consecutive years; or

(B) The source ceases all operations that lead to direct emissions of greenhouse gases, such as if the source closes permanently. This paragraph (8)(a)(B) does not apply to seasonal or other temporary cessation of operations, and does not apply to solid waste disposal facilities that are required to report greenhouse gas emissions to the United States Environmental Protection Agency pursuant to 40 CFR, Part 98.

(b) The owner or operator must submit notification that the source is no longer subject to section (2) by March 31 of any year to avoid the requirement to register and report greenhouse gases directly emitted during the previous year. The notification must be submitted on paper or electronic forms issued by the Department.

(c) An owner or operator that, pursuant to paragraph (8)(a)(A), is no longer subject to section (2) for a source, must retain, for five years following notification, all production information, fuel use records, emission calculations and other records used to document the source's greenhouse gas direct emissions for each of the three consecutive years that the source does not meet or exceed the emission threshold.

(d) Notwithstanding subsections (8)(a) – (c), section (2) becomes applicable to the owner or operator again if the source's annual direct emissions equal or exceed 2,500 metric tons of carbon dioxide equivalent of greenhouse gases in any future year.

~~[ED. NOTE: Tables referenced are available from the agency.]~~

Stat. Auth.: ORS 468.020, ORS 468A.050 & ORS 468A.280
Stats. Implemented: ORS 468 & ORS 468A

340-215-0040

Greenhouse Gas Registration and Reporting Requirements

(1) **Air contamination sources.** Any owner or operator required to register and report under OAR 340-215-0030~~(1) and~~ (2) must:

(a) ~~r~~Report the source's direct emissions of ~~carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride~~ greenhouse gases during the previous year, excluding emissions from categorically insignificant activity as follows:~~.~~

(A) Sources not required to report greenhouse gas emissions to the United States Environmental Protection Agency pursuant to 40 CFR, Part 98 may exclude all emissions from categorically insignificant activity, regardless of whether Department-approved reporting protocols would otherwise include the reporting of those emissions;

(B) Sources required to report greenhouse gas emissions to the United States Environmental Protection Agency pursuant to 40 CFR, Part 98 must report emissions from categorically insignificant activity if Department-approved reporting protocols include the reporting of those emissions;

~~(2)~~(b) Report ~~E~~emissions of CO_2 that originate from biomass ~~must be reported~~ separately from the source's other greenhouse gas emissions~~.~~; and

~~(3)~~(c) ~~Any person required to register and report under OAR 340-215-0030 must s~~Submit an annual greenhouse gas emissions registration and report to the Department pursuant to section (7) ~~as specified below:~~

~~(a) Any owner or operator of a source required to register and report under OAR 340-215-0030(1) must register and report regarding greenhouse gases emitted during the previous calendar year~~ by the due date for the annual report for non-greenhouse gas emissions specified in the source's Title V Operating Permit or Air Contaminant

Discharge Permit, or by March ~~15th~~ 31 of each year, ~~if no due date is otherwise specified in the permit~~ whichever is later~~;~~.

~~(b) Any person required to register and report under OAR 340-215-0030(2) must register and report by March 15th of each year regarding greenhouse gases emitted during the previous calendar year; and~~

~~(c) Any person voluntarily including additional emissions pursuant to OAR 340-215-0030(3) must include those emissions with their report pursuant to subsections (a) and (b) of this section.~~

(2) **Gasoline, diesel and aircraft fuel dealers.** Any person required to register and report under OAR 340-215-0030(3) must:

(a) Report the type and quantity of the gasoline, diesel or aircraft fuel imported, sold and distributed for use in this state during the previous year, and the greenhouse gas emissions that will result from the combustion of the gasoline, diesel or aircraft fuel; and

(b) Submit annual reports to the Department by March 31 of each year, as follows:

(A) An annual greenhouse gas emissions registration and report pursuant to section (7); or

(B) Copies of the person's fuel tax reports filed with the Oregon Department of Transportation pursuant to OAR chapter 735, divisions 170 and 176 for fuel imported, sold or distributed during the previous year, provided that the Department may require the submission of additional information if the copies of the reports submitted to the Oregon Department of Transportation are not sufficient to determine greenhouse gas emissions and related information that are otherwise required by this division.

(3) **Natural gas suppliers.** Any person required to register and report under OAR 340-215-0030(4) must:

(a) Report the type and quantity of the natural gas sold and distributed for use in this state during the previous year, and the greenhouse gas emissions that will result from the combustion of the natural gas; and

(b) Submit an annual greenhouse gas emissions registration and report to the Department pursuant to section (7) by March 31 of each year.

(4) **Propane wholesalers.** Any person required to register and report under OAR 340-215-0030(5) must:

(a) Report the type and quantity of propane imported for use in this state during the previous year, and the greenhouse gas emissions that will result from the combustion of the propane; and

(b) Submit an annual greenhouse gas emissions registration and report to the Department pursuant to section (7) by March 31 of each year.

(5) **Investor-owned utilities, electricity service suppliers and other electricity suppliers (except consumer-owned utilities).** All investor-owned utilities, electricity service suppliers and other persons (except consumer-owned utilities) required to register and report under OAR 340-215-0030(6) must:

(a) Report greenhouse gas emissions from the generation of the electricity that was imported, sold, allocated or distributed to end users in this state during the previous year, regardless of whether the electricity was generated in this state or imported, as follows:

(A) Greenhouse gas emissions from generating facilities owned or operated by the person reporting;

(B) Sulfur hexafluoride (SF_6) emissions from transmission equipment owned or operated by the person reporting;

(C) The number of megawatt-hours of electricity purchased by the person reporting, including information, if known, on the seller of the electricity to the person reporting and the original generating facility fuel type or types;

(D) An estimate of the amount of greenhouse gas emissions, using default greenhouse gas emissions factors in Table 1, attributable to electricity purchases made by a particular seller to the person reporting.

(E) An estimate of the amount of greenhouse gas emissions, using a default greenhouse gas emissions factor of 1,100 pounds of carbon dioxide equivalent of greenhouse gases per megawatt-hour, attributable to electricity purchases from an unknown origin or from a seller who is unable to identify the original generating facility fuel type or types.

(F) The number of megawatt-hours of electricity purchased for which a renewable energy certificate under ORS 469A.130 has been issued but subsequently transferred or sold to a person other than the person reporting; and

(G) A multijurisdictional entity reporting under this section (5) may rely upon a cost allocation methodology approved by the Public Utility Commission for reporting emissions allocated in this state; and

(b) Submit an annual greenhouse gas emissions registration and report to the Department pursuant to section (7) by June 1 of each year.

(6) **Consumer-owned utilities.** All consumer-owned utilities required to register and report under OAR 340-215-0030(6) must:

(a) Report greenhouse gas emissions from the generation of the electricity that was imported, sold, allocated or distributed to end users in this state during the previous year, regardless of whether the electricity was generated in this state or imported, as follows:

(A) For electricity purchased from the Bonneville Power Administration, report the number of megawatt-hours of electricity purchased by the utility from the Bonneville Power Administration, segregated by the types of contracts entered into by the utility with the Bonneville Power Administration, and if known the percentage of each fuel or energy type used to produce electricity purchased under each type of contract;

(B) For electricity that was not purchased from the Bonneville Power Administration, but was generated by the consumer-owned utility, report greenhouse gas emissions from the generation of the electricity; and

(C) For electricity that was not purchased from the Bonneville Power Administration, and was not generated by the consumer-owned utility, report the number of megawatt-hours of electricity purchased by the consumer-owned utility, including information, if known, on the seller of the electricity to the consumer-owned utility and the original generating facility fuel type or types; and

(b) Submit an annual greenhouse gas emissions registration and report to the Department pursuant to section (7) by June 1 of each year. A third party may submit the registration and report on behalf of a consumer-owned utility, and the report may include information for more than one consumer-owned utility, provided that the report contains all information required for each individual consumer-owned utility.

~~(4) Any person voluntarily registering and reporting pursuant to OAR 340-215-0030(4) must register and report regarding greenhouse gases emitted during the previous calendar year by March 15th of each year.~~

(~~5~~7) Except as provided in section (8), r~~R~~egistration and reports must be submitted on paper or electronic forms (or both) issued by the Department, which will require the following information:

(a) Source information such as source name, address, contact person, phone number, and permit number, if applicable;

(b) Emissions of the applicable greenhouse gases ~~identified in section (1) of this rule~~, pursuant to Department-approved reporting protocols, including but not limited to information such as estimated annual emissions, activity data, emission factors, conversion factors, global warming potential factor, and the emissions calculation methods used to determine emissions; and

(c) A signed statement certifying that the report is accurate to the best of the certifying individual's knowledge.

(8) Any person required to report greenhouse gases emitted during a year to the United States Environmental Protection Agency pursuant to 40 CFR, Part 98 may submit a copy of that report to the Department in lieu of the registration and report required by section (7) for greenhouse gases emitted during the same year, provided that the Department may require the submission of additional information if the copy of the report submitted to the United States Environmental Protection Agency is not sufficient to determine greenhouse gas emissions and related information that are otherwise required by this division. The purpose of this section is to eliminate duplicative reporting where possible, but to retain the Department's authority to require reporting of information that is required by this division but not submitted in a report to the United States Environmental Protection Agency.

(~~6~~9) The Department shall propose reporting protocols for use pursuant to this division and shall approve reporting protocols after holding a 30 day public comment period. The Department shall maintain a reference list of Department-approved reporting protocols to assist persons required to register and report under OAR 340-215-0030.

(~~7~~10) Any person required to report under this division must retain all production information, fuel use records, and emission calculations used to prepare the greenhouse gas annual report. These records and greenhouse gas annual reports must be retained for a minimum of 5 years.

Stat. Auth.: ORS 468.020, ORS 468A.050 & ORS 468A.280
Stats. Implemented: ORS 468 & ORS 468A

340-215-0050

Greenhouse Gas Reporting Fees

(1) Any person required to register and report under OAR 340-215-0030(2)(a)(A) or 340-215-0030(2)(b)(A) must submit greenhouse gas reporting fees to the Department as specified in OAR 340-220-0050. The fees must be received by the Department within 30 days after the Department mails the fee invoice.

(2) Any person required to register and report under OAR 340-215-0030(2)(a)(B)-(C) or 340-215-0030(2)(b)(B) must submit greenhouse gas reporting fees to the Department as specified in OAR Chapter 340, Division 216, Table 2, Part 3. The fees must be received by the Department within 30 days after the Department mails the fee invoice.

Stat. Auth.: ORS 468.020 & 468A.050
Stats. Implemented: ORS 468 & ORS 468A

GREENHOUSE GAS MANDATORY REPORTING RULES
OAR 340-215-0030

Table 1: ACDP Activities and Sources Required to Report Greenhouse Gas Emissions

Table Part	Category Code	Description
A	2	Natural Gas and Propane Fired Boilers (with or without #2 diesel oil back-up (a)) of 10 or more MMBTU but less than 30 MMBTU/hr heat input constructed after June 9, 1989
B	~~3~~ 4	Ammonia Manufacturing
B	~~4~~ 5	Animal Rendering and Animal Reduction Facilities
B	~~5~~ 6	Asphalt Blowing Plants
B	~~6~~ 7	Asphalt Felts or Coatings
B	~~7~~ 8	Asphaltic Concrete Paving Plants both stationary and portable
B	~~8~~ 9	Bakeries, Commercial over 10 tons of VOC emissions per year
B	~~11~~ 12	Beet Sugar Manufacturing
B	~~12~~ 13	Boilers and other Fuel Burning Equipment over 10 MMBTU/hr heat input, except exclusively Natural Gas and Propane fired units (with or without #2 diesel backup) under 30 MMBTU/hr heat input
B	~~13~~ 14	Building paper and Buildingboard Mills
B	~~14~~ 15	Calcium Carbide Manufacturing
B	~~16~~ 17	Cement Manufacturing
B	~~18~~ 19	Charcoal Manufacturing
B	~~21~~ 23	Coffee Roasting (roasting 30 or more tons per year)
B	~~25~~ 27	Electrical Power Generation from combustion (excluding units used exclusively as emergency generators)
B	~~30~~ 33	Galvanizing and Pipe Coating (except galvanizing operations that use less than 100 tons of zinc/yr)
B	~~31~~ 34	*** Gasoline Plants and Bulk Terminals subject to OAR 340, Division 232
B	~~33~~ 36	Glass and Glass Container Manufacturing
B	~~36~~ 39	Gray iron and steel foundries, malleable iron foundries, steel investment foundries, steel foundries 100 or more tons/yr metal charged (not elsewhere identified)
B	~~37~~ 40	Gypsum Products Manufacturing
B	~~38~~ 41	Hardboard Manufacturing (including fiberboard)
B	~~39~~ 43	Incinerators with two or more ton per day capacity
B	~~40~~ 44	Lime Manufacturing
B	~~44~~ 48	Marine Vessel Petroleum Loading and Unloading
B	~~48~~ 54	Natural Gas and Oil Production and Processing and associated fuel burning equipment
B	~~49~~ 55	Nitric Acid Manufacturing
B	~~50~~ 56	Non-Ferrous Metal Foundries 100 or more tons/yr of metal charged
B	~~51~~ 57	Organic or Inorganic Industrial Chemical Manufacturing and Distribution with ½ or more tons per year emissions of any one criteria pollutant (sources in this category with less than ½ ton/yr of each criteria pollutant are not required to have an ACDP)
B	~~53~~ 60	Particleboard Manufacturing (including strandboard, flakeboard, and waferboard)
B	~~56~~ 63	Petroleum Refining and Re-refining of Lubricating Oils and Greases including Asphalt Production by Distillation and the reprocessing of oils and/or solvents for fuels

B	~~57~~ 65	Plywood Manufacturing and/or Veneer Drying
B	~~58~~ 66	Prepared feeds for animals and fowl and associated grain elevators 10,000 or more tons per year throughput
B	~~59~~ 67	Primary Smelting and/or Refining of Ferrous and Non-Ferrous Metals
B	~~60~~ 68	Pulp, Paper and Paperboard Mills
B	~~62~~ 70	Sawmills and/or Planing Mills 25,000 or more bd. ft./maximum 8 hr. finished product
B	~~63~~ 72	Secondary Smelting and/or Refining of Ferrous and Non-Ferrous Metals
B	~~65~~ 74	Sewage Treatment Facilities employing internal combustion for digester gasses
B	~~70~~ 79	Synthetic Resin Manufacturing

Notes:
*** Portland AQMA, Medford-Ashland AQMA or Salem SKATS only
(a) “back-up” means less than 10,000 gallons of fuel per year
Category codes were derived from OAR 340-216-0020 Table 1, December 16, 2009.

GREENHOUSE GAS MANDATORY REPORTING RULES
OAR 340-215-0030

Table 2: Activities and Sources with SIC Codes Required to Report Greenhouse Gas Emissions

SIC	Description
2041	Flour and Other Grain Mill Products
2096	Potato Chips, Corn Chips, and Similar Snacks
2421	Sawmills and Planing Mills, General
2499	Wood Products, Not Elsewhere Classified
2752	Commercial Printing, Lithographic
2816	Inorganic Pigments
3086	Plastic Foam Products
3251	Brick and Structural Clay Tile
3296	Mineral Wool
3297	Nonclay Refactories
3559	Special Industry Machinery , Not Elsewhere Classified
3672	Printed Circuit Boards
3674	Semiconductors and Related Devices
4961	Steam and Air Conditioning Supply
5093	Scrap and Waste Materials
9711	National Security (NAICS 928110)

DIVISION 215

GREENHOUSE GAS REPORTING REQUIREMENTS

340-215-0040

Table 1

Part 1: Default CO_2 emission factors and high heat values for various types of fuel

Fuel type	Default high heat value	Default CO_2 emission factor
Coal and coke	mmBtu/short ton	kilograms CO_2/mmBtu
Anthracite	25.09	103.54
Bituminous	24.93	93.40
Subbituminous	17.25	97.02
Lignite	14.21	96.36
Coke	24.80	102.04
Mixed (Commercial sector)	21.39	95.26
Mixed (Industrial coking)	26.28	93.65
Mixed (Industrial sector)	22.35	93.91
Mixed (Electric Power sector)	19.73	94.38
Natural gas	mmBtu/standard cubic foot	kilograms CO_2/mmBtu
Pipeline (Weighted U.S. Average)	1.028×10^{-3}	53.02
Petroleum products	mmBtu/gallon	kilograms CO_2/mmBtu
Distillate Fuel Oil No. 1	0.139	73.25
Distillate Fuel Oil No. 2	0.138	73.96
Distillate Fuel Oil No. 4	0.146	75.04
Residual Fuel Oil No. 5	0.140	72.93
Residual Fuel Oil No. 6	0.150	75.10
Still Gas	0.143	66.72
Kerosene	0.135	75.20
Liquefied petroleum gases (LPG)	0.092	62.98
Propane	0.091	61.46
Propylene	0.091	65.95
Ethane	0.096	62.64
Ethylene	0.100	67.43
Isobutane	0.097	64.91
Isobutylene	0.103	67.74
Butane	0.101	65.15
Butylene	0.103	67.73
Naphtha (<401 deg F)	0.125	68.02
Natural Gasoline	0.110	66.83
Other Oil (>401 deg F)	0.139	76.22
Pentanes Plus	0.110	70.02
Petrochemical Feedstocks	0.129	70.97

Petroleum Coke	0.143	102.41
Special Naphtha	0.125	72.34
Unfinished Oils	0.139	74.49
Heavy Gas Oils	0.148	74.92
Lubricants	0.144	74.27
Motor Gasoline	0.125	70.22
Aviation Gasoline	0.120	69.25
Kerosene-Type Jet Fuel	0.135	72.22
Asphalt and Road Oil	0.158	75.36
Crude Oil	0.138	74.49
Fossil fuel-derived fuels (solid)	mmBtu/short ton	kilograms CO_2/mmBtu
Municipal Solid Waste	9.95	90.7
Tires	26.87	85.97
Fossil fuel-derived fuels (gaseous)	mmBtu/standard cubic foot	kilograms CO_2/mmBtu
Blast Furnace Gas	0.092×10^{-3}	274.32
Coke Oven Gas	0.599×10^{-3}	46.85
Biomass fuels—solid	mmBtu/short ton	kilograms CO_2/mmBtu
Wood and Wood Residuals	15.38	93.8
Agricultural Byproducts	8.25	118.17
Peat	8.00	111.84
Solid Byproducts	25.83	105.51
Biomass fuels—gaseous	mmBtu/standard cubic foot	kilograms CO_2/mmBtu
Biogas (Captured methane)	0.841×10^{-3}	52.07
Biomass Fuels—Liquid	mmBtu/gallon	kilograms CO_2/mmBtu
Ethanol (100%)	0.084	68.44
Biodiesel (100%)	0.128	73.84
Rendered Animal Fat	0.125	71.06
Vegetable Oil	0.120	81.55

Part 2: Default CH_4 and N_2O emission factors for various types of fuel

Fuel type	Default CH_4 emission factor (kilograms CH_4/mmBtu)	Default N_2O emission factor (kilograms N_2O /mmBtu)
Coal and Coke (All fuel types in Part 1)	1.1×10^{-2}	1.6×10^{-03}
Natural Gas	1.0×10^{-03}	1.0×10^{-04}
Petroleum (All fuel types in Part 1)	3.0×10^{-03}	6.0×10^{-04}
Municipal Solid Waste	3.2×10^{-02}	4.2×10^{-03}
Tires	3.2×10^{-02}	4.2×10^{-03}
Blast Furnace Gas	2.2×10^{-05}	1.0×10^{-04}
Coke Oven Gas	4.8×10^{-04}	1.0×10^{-04}
Biomass Fuels—Solid (All fuel types in Part 1)	3.2×10^{-02}	4.2×10^{-03}
Biogas	3.2×10^{-03}	6.3×10^{-04}
Biomass Fuels—Liquid (All fuel types in Part 1)	1.1×10^{-03}	1.1×10^{-04}

Table 1 notes:
Emissions factors were derived from 40 CFR, Part 98 Subpart C, October 30, 2009.

mmBtu means million British thermal units.

DIVISION 216

AIR CONTAMINANT DISCHARGE PERMITS

OAR 340-216-0020

Table 2

Part 1. Initial Permitting Application Fees: (in addition to first annual fee)

a. Short Term Activity ACDP	$3,000.00
b. Basic ACDP	$120.00
c. Assignment to General ACDP	$1,200.00*
d. Simple ACDP	$6,000.00
e. Construction ACDP	$9,600.00
f. Standard ACDP	$12,000.00
g. Standard ACDP (PSD/NSR)	$42,000.00

*DEQ may waive the assignment fee for an existing source requesting to be assigned to a General ACDP because the source is subject to a newly adopted area source NESHAP as long as the existing source requests assignment within 90 days of notification by DEQ.

Part 2. Annual Fees: (Due 12/1* for 1/1 to 12/31 of the following year)

a. Short Term Activity ACDP		$NA
b. Basic ACDP		$360.00
c. General ACDP	(A) Fee Class One	$720.00
	(B) Fee Class Two	$1,296.00
	(C) Fee Class Three	$1,872.00
	(D) Fee Class Four	$360.00
	(E) Fee Class Five	$120.00
	(F) Fee Class Six	$240.00

d. Simple ACDP	(A) Low Fee	$1,920.00
	(B) High Fee	$3,840.00
e. Standard ACDP		$7,680.00

* If the Department issues an invoice for Dry Cleaners or Gasoline Dispensing Facilities that combines fees from other ~~D~~divisions on a single invoice the payment due may be extended by the Department until March 1st.

Part 3. Specific Activity Fees:

a. Non-Technical Permit Modification (1)	$360.00
b. Non-PSD/NSR Basic Technical Permit Modification (2)	$360.00
c. Non-PSD/NSR Simple Technical Permit Modification(3)	$1,200.00
d. Non-PSD/NSR Moderate Technical Permit Modification (4)	$6,000.00
e. Non-PSD/NSR Complex Technical Permit Modification (5)	$12,000.00
f. PSD/NSR Modification	$42,000.00
g. Modeling Review (outside PSD/NSR)	$6,000.00
h. Public Hearing at Source's Request	$2,400.00
i. State MACT Determination	$6,000.00
j. Compliance Order Monitoring (6)	$120.00/month
k. Annual Greenhouse Gas Reporting, as required by OAR 340-215-0050(2)	15% of the applicable annual fee in Part 2

Part 4. Late Fees for annual fees and greenhouse gas reporting fees:

a. 8-30 days late 5% ~~of annual fee~~
b. 31-60 days late 10% ~~of annual fee~~
c. 61 or more days late 20% ~~of annual fee~~

1. Non-Technical modifications include, but are not limited to name changes, change of ownership and similar administrative changes.

2. Basic Technical Modifications include, but are not limited to corrections of emission factors in compliance methods, changing source test dates for extenuating circumstances, and similar changes.

3. Simple Technical Modifications include, but are not limited to, incorporating a PSEL compliance method from a review report into an ACDP, modifying a compliance method to use different emission factors or process parameter, changing source test dates for extenuating circumstances, changing reporting frequency, incorporating NSPS and NESHAP requirements that do not require judgment, and similar changes.

4. Moderate Technical Modifications include, but are not limited to incorporating a relatively simple new compliance method into a permit, adding a relatively simple compliance method or monitoring for an emission point or control device not previously addressed in a permit, revising monitoring and

reporting requirements other than dates and frequency, adding a new applicable requirement into a permit due to a change in process or change in rules and that does not require judgment by the Department, incorporating NSPS and NESHAP requirements that do not require judgment, and similar changes.

5. Complex Technical Modifications include, but are not limited to incorporating a relatively complex new compliance method into a permit, adding a relatively complex compliance method or monitoring for an emission point or control devise not previously addressed in a permit, adding a relatively complex new applicable requirement into a permit due to a change in process or change in rules and that requires judgment by the Department, and similar changes.

6. This is a one time fee payable when a Compliance Order is established in a Permit or a Department Order containing a compliance schedule becomes a Final Order of the Department and is based on the number of months the Department will have to oversee the Order.

DIVISION 220

OREGON TITLE V OPERATING PERMIT FEES

340-220-0050

(1) The Department will assess specific activity fees for an Oregon Title V Operating Permit program source for the period of August 21, 2007 to June 30, 2008 as follows:

(a) Existing Source Permit Revisions:

(A) Administrative* -- $ 406;

(B) Simple -- $ 1,626;

(C) Moderate -- $ 12,194;

(D) Complex -- $ 24,387.

(b) Ambient Air Monitoring Review -- $ 3,252.

(2) The Department will assess specific activity fees for an Oregon Title V Operating Permit program source as of July 1, 2008 as follows:

(a) Existing Source Permit Revisions:

(A) Administrative* -- $ 418;

(B) Simple -- $ 1,672;

(C) Moderate -- $ 12,540;

(D) Complex -- $ 25,081.

(b) Ambient Air Monitoring Review -- $ 3,344.

(3) The Department will assess the following specific activity fee for an Oregon Title V Operating Permit program source for annual greenhouse gas reporting, as required by OAR 340-215-0050(1) -- Fifteen percent of the following, not to exceed $4,500:

(a) The applicable annual base fee (for the period of November 15 of the current year to November 14 of the following year); and

(b) The applicable annual emission fee (for emissions during the previous calendar year).

*Includes revisions specified in OAR 340-218-0150(1)(a) through (g). Other revisions specified in 340-218-0150 are subject to simple, moderate or complex revision fees.

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468 & ORS 468A

Summary of Public Comment and Agency Response

Title of Rulemaking: Oregon Greenhouse Gas Reporting Rules

Prepared by: Andrea Curtis Date: August 11, 2010

Comment period	The public comment period opened June 15, 2010 and closed 5 p.m., July 21, 2010. Twenty one people submitted comments on the proposed rules. DEQ held the following public hearings: 1) July 15, 2010, 6:00 pm DEQ - Medford Regional Office 221 Stewart Avenue, Suite 201, Medford 1 attended and 0 testified. 2) July 16, 2010, 6:00 pm DEQ - Bend Regional Office 475 NE Bellevue Drive, Suite 110, Bend 3 attended and 2 testified. 3) July 19, 2010, 6:00 pm DEQ - Headquarters Office, Room EQC-A 811 SW Sixth Avenue, Portland 9 attended and 2 testified.
Organization of comments and responses	Summaries of individual comments and DEQ's responses are provided below. Comments are summarized in categories. The persons who provided comments are referenced by number. A list of commenters and their reference numbers follows the summary of comments and responses. DEQ responses are shown in *italics*.
Acronyms used in this document	DEQ = Oregon Department of Environmental Quality EPA = United States Environmental Protection Agency EQC = Oregon Environmental Quality Commission

Summary of Comments and DEQ Responses	
1. General support	1) Oregon must quickly begin fully assessing and addressing greenhouse gas emissions. Proactive state action is imperative with the lack of federal leadership on climate change legislation and the clock running down on irreversible climate change. Greenhouse gas reporting requirements are an essential step in understanding, reducing and offsetting Oregon's greenhouse gas emissions. (11) 2) Climate change is one of the greatest challenges facing Oregon. Accurate, credible, verifiable and comprehensive reporting of greenhouse gas emissions is essential for state policy makers to understand how to meet this challenge. The rule will allow for a more accurate inventory of Oregon's greenhouse gas emissions with the expanded scope of reporting sources to include mobile sources, wastewater treatment facilities and landfills. (11) 3) DEQ should continue to be a leader on greenhouse gas emission reporting. We thank DEQ for its leadership in requiring reporting from sources meeting the program's strong emissions threshold. DEQ's vigorous emissions threshold incorporates more sources and

	documents Oregon’s actual carbon footprint more accurately than both the EPA’s and the Western Climate Initiative’s thresholds. DEQ should continue to be a model for other states, EPA and the Western Climate Initiative. (11) 4) We thank the leadership of Governor Kulongski and DEQ for expanding the reporting program from just stationary sources to include mobile sources and natural gas and for setting a high bar of leadership with Oregon’s emissions threshold. We encourage DEQ to be a leader where the federal government and Western Climate Initiative lacked action. (21) 5) We support all sources of greenhouse gas emissions reporting for the Oregon program. (9, 14) *Response to all comments:* *DEQ appreciates your support for a comprehensive greenhouse gas reporting program. DEQ initiatives are helping to lead the way to address the challenge of climate change. DEQ’s proposal would create reporting requirements for gasoline, diesel and aircraft fuels, which would provide DEQ with emissions information for mobile sources; however, we’d like to clarify the proposal would not expand the scope of reporters to landfills and wastewater treatment facilities; these emission categories are already included in Oregon’s greenhouse gas reporting rules.*
2. General opposition	1) As a small business owner struggling to stay afloat, I am not in favor of the new fees proposed by DEQ. As everyone knows, Oregon's economy is in trouble. Record unemployment, businesses moving out of state (measures 66 & 67) and tough economic conditions are forcing business to make big sacrifices. We can hardly meet payroll as it is. Does this seem like the right time to introduce new fees? I don't think so. (1) 2) I’m opposed to additional greenhouse gas reporting and expansion of business regulation and fees in general. The federal and state governments are overburdening U.S. business with regulations and restrictions on practices that have little or no real impact on the environment. North American manufacturing is struggling to compete against a foreign competitor that has multiple and substantial competitive advantages. Don’t add another! Whether you believe in global warming or not, our economy is directly aligned with energy consumption. The variable portion of that energy is fossil fuel based. Now is the time for development of clean fuel alternatives that can replace fossil fuels and allow North American manufacturing to continue to compete in the world market. It is not the time for same old government regulation, reporting requirements and taxes (i.e. fees). (2) 3) The International Conference on Climate Change held last May in Chicago affirmed that global warming is not occurring and that it is a false and inaccurate science. This meeting was made up of world renowned scientists and world leaders. Why is DEQ pursuing fees related to this debunked belief? Movements by those claiming to represent the best interests of the environment are going to drive us all to financial ruin. Who will you collect fees from when we’re all out of business? I am adamantly opposed to any effort related to greenhouse gas fee assessment and believe DEQ should recognize this science as false and abandon all efforts to regulate, control and assess fees and penalties related to this and other so-called causes of global warming. (5) *Response to all comments:* *Oregon cannot disregard the strong scientific evidence showing that humans are contributing to the rapid acceleration of global temperatures. In addition, although new reporting requirements and fees create costs to businesses, the effects of climate change have serious implications for the economy and environment. For example, Oregon snow packs are shrinking and unseasonably warm temperatures are leading to rapid spring melts*

	depleting Oregon's supply of summer water for agriculture. *Oregon, along with other states, EPA and other nations are taking action now to better understand greenhouse gas emissions and develop strategies to reduce emissions. Reporting requirements will enable Oregon to evaluate progress toward state greenhouse gas reduction goals established by the Oregon Legislature, pursue local policies and actions to reduce emissions, and inform and shape national policies in ways that may benefit Oregon residents and businesses. Developing clean fuel alternatives is just one of several initiatives that will reduce our consumption and reliance on fossil fuels and subsequently reduce greenhouse gas emissions.* *Since DEQ does not receive state general fund for Oregon's greenhouse gas reporting program, funding to support the program needs to be provided through fees. DEQ sympathizes with the costs to the regulated community associated with the greenhouse gas reporting program and has done everything it can to minimize new fees. In response to concerns about the economy, DEQ reduced the number of staff positions that it requested from the Legislature from four positions to two. In addition, DEQ worked with stakeholders to minimize the burden and costs of the proposed reporting requirements on affected businesses and to distribute the fees in the most equitable manner possible.*
3. Reporting criteria	1) Why is a greenhouse gas permit necessary when we don't produce any greenhouse gases? Our small rock crusher is powered by electric motors, not diesel or gas engines. We only crush 2,500 metric tons per year. (18) *Response:* *The rock crushing operation described by the commenter would not be subject to greenhouse gas reporting requirements. Oregon's greenhouse gas reporting requirements would apply to a rock crushing operation that holds an air quality permit with DEQ and where direct annual emissions of greenhouse gases from fuel combustion are at least 2,500 metric tons carbon dioxide equivalent. Oregon's rules include greenhouse gas registration and reporting requirements, but do not contain greenhouse gas permitting requirements.*
	2) The rules should incent owners or operators to reduce greenhouse gas emissions. We believe once an owner or operator's greenhouse gas emissions drop below the reporting threshold through source reduction or elimination, the requirement to register and report should terminate. (15) *Response:* *DEQ's proposal would provide for a source that initially emits more than the emissions threshold to cease reporting if its direct emissions are below the threshold for three consecutive years. DEQ's wants to allow sources that reduce emissions below the threshold to stop reporting, but prevent the situation where a source near the threshold could move in and out of the reporting program due to small variations in emissions from one year to the next. DEQ does not feel the three-year requirement reduces the incentive for owners and operators to reduce greenhouse gas emissions. The requirement is necessary to prevent tracking difficulties for DEQ and to reduce uncertainty for sources on whether reporting is required. DEQ's requirement is similar to the federal rule, where a reporter can cease reporting if greenhouse gas emissions of carbon dioxide equivalents are either less than 25,000 metric tons per year for five consecutive years or less than 15,000 metric tons per year for three consecutive years.*
	3) Oregon's reporting threshold of 2,500 metric tons is well below federal levels and those of other greenhouse gas programs. We believe 25,000 metric tons is a threshold that is

	consistent with other greenhouse gas programs and will produce a sufficiently comprehensive dataset to evaluate and identify significant emission sources and reduction opportunities to meet Oregon's greenhouse gas reduction targets, while minimizing the reporting burden and cost impacts on small businesses. (15) 4) We believe the reporting threshold should be set at 25,000 metric tons to harmonize with EPA's greenhouse gas reporting rules. We support the rationale for selecting the federal threshold as discussed in the preamble to the proposed federal rule. (13) *Response to all comments:* *The initial Oregon greenhouse gas reporting advisory committee recommended EQC establish a comprehensive reporting requirement with no threshold to get a better understanding of which sources emit greenhouse gases in Oregon and to provide context for future policy considerations. DEQ proposed and EQC adopted the emissions threshold of 2,500 metric tons carbon dioxide equivalent in Oregon's greenhouse gas reporting rules in 2008. The emissions threshold significantly reduced the number of small facilities required to report. DEQ considered aligning Oregon's reporting threshold with the federal threshold finalized by EPA in 2009; however, it rejected this option because the federal threshold wouldn't enable Oregon to collect as accurate, comprehensive emissions information for this state and because EPA's reporting rules do not delineate Oregon's emissions for fuels, power, small sources and some large sources that lack EPA reporting protocols.*
4) Reporting protocols, exemptions and deferrals	1) We support the use of EPA greenhouse gas reporting methodology for the Oregon reporting program. The alignment of reporting protocols allows consistent reporting. (9, 14) 2) Exemptions and deferrals should not hinder comprehensive reporting. DEQ should use its exemption and deferral authority as a last resort. When adequate protocols are not available, DEQ should require reporting of other information such as fuel quantity or power produced as proxies for greenhouse gas emissions. This should be in line with an overall goal of documenting as accurate and comprehensive an inventory of Oregon's greenhouse gas emissions as economically and logistically feasible. Exemptions and deferrals should not be granted until DEQ fully considers the feasibility of reporting from all stakeholders. (11) *Response:* *DEQ plans to align Oregon's reporting protocols with EPA's reporting protocols wherever possible. DEQ would defer or exempt facilities from reporting only in cases where DEQ determines adequate protocols are not available or other extenuating circumstances make reporting infeasible. For example, DEQ plans to defer reporting for municipal wastewater treatment facilities until EPA finalizes reporting requirements for the source category. While the source category is already covered by Oregon's rules, many of the facilities in this source category are small and there is currently no protocol to accurately calculate fugitive wastewater emissions.*
5) Data availability	1) An understandable explanation of each source's greenhouse gas emissions should be available for the public. (11, 21) 2) Greenhouse gas emissions data should be available with a breakdown of different source categories, stationary, mobile and individual companies and reporting sources. (21) 3) Greenhouse gas emissions reporting should inform the public of the actual environmental costs of emitting greenhouse gases. Sources should be individually identified to better inform the public how both their and each source's decisions affect climate change. (11) *Response to all comments:*

	DEQ intends to make emissions data from reporters readily available to the public after DEQ reviews and verifies the greenhouse gas emissions reports received to help ensure the data are accurate.
6) Landfills	1) DEQ's proposed rules have a reporting impact to closed landfills. EPA doesn't require reporting from landfills if waste wasn't accepted after the cutoff date in the federal rule. There is no waste acceptance cutoff date in Oregon's rules and exemptions for air contamination sources in OAR 340-215-0030(8) don't address this issue. (6) 2) DEQ should align with EPA's requirement that closed landfills report only if they have accepted garbage in the last thirty years. Lane County Public Works has several closed landfills and may not know where some of them are located. It would be difficult to find those landfills and difficult to determine what is in them. It would be beneficial to align with EPA in any way possible, other than the emissions threshold, but as far as reporting and calculations so that we would complete one set of calculations (instead of two) and submit one report to both agencies. (20) 3) Counties operating landfills in Oregon have expressed the following concerns: a. The additional costs to counties to monitor, calculate and report could be quite substantial, especially for landfills that have closed landfill permits. A "one-time" report could be submitted for the closed landfills and the assumption that greenhouse gas emissions will decrease over time could be made. Regardless, a simple protocol for generating and submitting a report and assistance from DEQ would be helpful. (8) b. The increase in air quality permit fees will be difficult for counties to manage. Counties, like the state, are suffering financially from a decrease in revenue. DEQ is essentially asking for government to pay government (tax payers dollars). We understand DEQ needs to pay for programs; we are merely pointing out that counties are having a hard time funding their programs too. (8) c. We urge DEQ to ensure emission calculation formulas and models are appropriate for the different environments in Oregon. For example, considerations for generating emission amounts are likely different on the east side (dry) of the state from the west side (wet). (8) *Response to all comments:* *DEQ revised the proposed rules to exempt any landfill from reporting if the facility did not accept waste during the previous year and is not required to report greenhouse gas emissions to EPA under the federal reporting rules. A landfill subject to the federal rules would need to submit to DEQ a copy of its report to EPA. DEQ does not feel it's necessary to require annual reporting from these landfills because they would not have new information to report. The proposed exemption reduces the number of landfills subject to Oregon-only reporting from 19 facilities to 6 facilities. To minimize the burden of reporting for these 6 facilities, DEQ intends to incorporate greenhouse gas reporting requirements into the annual reports already required by DEQ's land quality division. None of the 6 facilities would be currently subject to the fees proposed by DEQ's rulemaking because the facilities do not hold air quality permits and DEQ is not proposing to establish permitting or registration requirements for these sources at this time.* *There are two additional landfills subject to Oregon's existing greenhouse gas reporting rules that hold air quality permits, are owned by local jurisdictions and which DEQ anticipates would meet EPA's reporting threshold. These facilities would be required to pay the fees proposed by DEQ's rulemaking. DEQ sympathizes with the costs to the regulated community associated with the greenhouse gas reporting program and has done everything it*

	can to minimize new fees. *DEQ plans to propose reporting protocols allowing DEQ to use EPA's Landfill Gas Emissions Model for smaller facilities to determine greenhouse gas emissions from landfills. DEQ would use default factors based on location of the landfill. The model includes factors that account for whether a landfill is wet or dry since this affects emissions generation.*
7) Wastewater treatment facilities	1) The Oregon Association of Clean Water Agencies suggests DEQ be more specific in its inclusion of wastewater treatment facilities required to obtain an individual National Pollutant Discharge Elimination System permit in OAR 340- 215-0030(2). The inclusion of all NPDES permit holders, domestic and industrial wastewater treatment plants, is a very large category of sources. It is not clear how many of these facilities would exceed DEQ's reporting threshold. No information is available from DEQ to indicate this category of sources should be a priority for DEQ's limited resources. EPA has excluded municipal wastewater operations as a source category from their greenhouse gas reporting requirements and DEQ should do the same. We recommend that greenhouse gas reporting for domestic wastewater treatment plants be excluded and the rules be amended to remove OAR 340-215-0030(b)(C)(ii). There are no control strategies these sources could incorporate to reduce greenhouse gas emissions and DEQ's staff resources should be focused on higher priorities. (7) *Response:* *In 2008, DEQ proposed and EQC adopted greenhouse gas reporting requirements for municipal wastewater treatment facilities because evidence suggests the source category is a significant source of greenhouse gas emissions, largely due to biogas emissions. EPA may finalize reporting protocols for the source category in the future. Since EPA has not established emission quantification methods, DEQ is unable to estimate the number of facilities that would meet Oregon's emissions threshold and does not have sufficient information to narrow the scope of the rule; however, DEQ's emissions threshold will exempt some of the smaller facilities from reporting. DEQ plans to defer reporting from the source category until EPA finalizes reporting requirements.*
8) Categorically insignificant activity	1) OAR 340-215-0040(A) allows for exclusion of emissions from categorically insignificant sources in reporting if a source is not required to report under EPA's rule. Under Subpart C for Stationary Combustion, 40 CFR 98.30(a)(4), flares are specifically excluded from the source category. Does that mean flares are "categorically insignificant"? If so, it seems an unintended consequence in that it creates a disincentive to combust biogas for useful heat/energy. (7) *Response:* *DEQ would exempt flares as categorically insignificant for sources reporting under EPA's protocols for stationary fuel combustion. Although flares are exempt from the source category, EPA requires reporting of emissions from the combustion of biomass fuels, which can be used as alternatives to fossil fuels. As described in EPA's response to comments on the federal greenhouse gas reporting rules, their analysis shows that the cost savings by co-firing biomass fuels can far exceed the minimal burden associated with this reporting requirement. This suggests that exempting flares will not create a significant disincentive to combust biogas for heat or energy.*
9) Equitable fees	1) Oregon Environmental Council asks that DEQ take up the Legislature's invitation in Senate Bill 38 to have legislative authority to establish fees for all reporting sources. (11, 21) 2) There is a gap in funding from mobile sources. While permitted stationary sources should

pay their share of financing the reporting program, it is not equitable to make them bear all program costs. Oregon Environmental Council recommends DEQ request authority from the state legislators to establish fees for all mobile sources required to report under the program. (11)

3) The Northwest Pulp and Paper Association and our member companies are firm believers in collaborative involvement with state agencies to achieve improved environmental performance and improved air and water quality. Association members hold air operating permits and pay fees affected by this rulemaking. We oppose the $4,500 reporting fee cap for Title V air operating permits. The association believes this amount should be lowered when all Oregon sources begin reporting emissions, so that industrial stationary sources holding Title V operating permits do no bear an unfair cost burden for funding Oregon's program. (9)

4) Blue Heron Company opposes the $4,500 reporting fee cap for Title V air operating permits. This unfairly asks a select sector of reporters to pay all the costs of a program stated to be of statewide importance. The rulemaking proposal indicates that costs of the program (approximately $370,000 annually) are to be split among 192 permitted sources, while at least an additional 213 reporters will not pay fees. We are aware that that there are reporters over which DEQ has no authority to charge fees. We feel very strongly that fees charged to reporters over which DEQ does have authority (permitted sources) should represent only the portion of the cost of the program attributed to us. We should not be required to pay elevated fees to support the entire cost of the program. The costs for reporters over which DEQ has no fee authority should be paid from DEQ's general funds. In addition, we ask that costs be back calculated for the first reporting year of 2010 and that fees in excess of a reporter's fair apportioned share be credited to those reporters. (14)

Response to all comments:
DEQ will report back to the legislature in the 2011 legislative session regarding funding mechanisms for developing and implementing the greenhouse gas reporting program, including whether a schedule of fees should be established for the electricity suppliers and fuel distributors added by the rulemaking.

Since the Legislature did not approve use of state general funds for Oregon's greenhouse gas reporting program, funding must be provided through fees. DEQ sympathizes with the costs to the regulated community associated with the greenhouse gas reporting program and has done everything it can to minimize the cost of the reporting program.

DEQ prepared a legislative concept that would establish fees for the new reporters for the Legislature's consideration. Establishing fees would spread the costs of the program over more businesses, which would reduce the total amount of annual revenue needed from existing fee payers. One option for spreading the costs would be to reduce the amount of the $4,500 fee cap. DEQ will also include the issue of back billing in its report to the Legislature.

10) Gasoline, fuel and aircraft dealers	1) The gasoline sold by our retail vehicle fueling facilities in Oregon is purchased from fuel suppliers that are responsible for paying Oregon Use Fuel Tax. Based on discussions with DEQ, we wouldn't need to report; however, we would be subject to reporting under OAR 340-215-0030 because we are a seller as defined in ORS 319.010 and sell more than 5,500 gallons of gasoline per year. (12) a. DEQ should clarify that gasoline stored and dispensed at retail fueling facilities does not produce "direct emissions" of carbon dioxide for the purposes of 340-215-0030(2)(b). Although retail fueling facilities require an air quality permit for handling gasoline, the delivery and dispensing of gasoline does not produce direct emissions of carbon dioxide. (12) b. DEQ should clarify that operators of retail vehicle fueling facilities, such as ours, are excluded in OAR 340-215-0030(2). Reporting from retail fueling facility operators report may result in redundant reporting since suppliers/wholesalers and retailers would report on the same gasoline. Reporting requirements should avoid redundancy or ambiguity. (12) 2) OAR 340-215-0030(3), which defines gasoline, diesel and aircraft fuel dealers required to report, lacks clarity. Our agency, in conjunction with several other public agencies, own and operate a regional fuel facility. All of the fuel dispensed through the facility is purchased from licensed dealers who would each be required to report gallons distributed, including gallons distributed to our facility. As operator of the facility, we would appear to be a seller; however, reporting by our facility would be redundant and potentially lead to misleading conclusions about the total amount of fuel distributed. We suggest adding an exemption that any person who dispenses gasoline diesel and aircraft fuel that has received only fuel from a licensed dealer, as that term is defined in ORS 319.090, shall not be required to register and report. This exemption would not interfere with the valuable purpose of assuring DEQ has accurate documentation of all sales of greenhouse gas emitting fuels, but would enhance the accuracy of reporting by eliminating one possibility of duplication. (16) 3) So just what do these changes mean to someone who runs a small gas station? I looked over the changes and are you kidding me? (4) 4) We encourage DEQ to work with the Oregon Department of Transportation regarding fuel tax reports and to make sure the data is as accurate as reporting directly to DEQ. (21) 5) We encourage cooperation between DEQ and the Oregon Department of Transportation. In order to fully understand greenhouse gas emissions from petroleum combustion in Oregon, the departments should share fuel tax information gathered from gasoline, diesel and aircraft fuel dealers. The Oregon greenhouse gas reporting advisory committee properly recommended two options to lessen the burden of reporting to DEQ by submitting either greenhouse gas reports or fuel tax reports. DEQ should still accurately quantify the amount of their greenhouse gas emissions by allowing fuel dealers to submit fuels tax reports and fuel amounts. We encourage an open working relationship between the departments in this reporting program to make sure both methods of reporting accurately document indirect greenhouse gas emissions from all fuel dealers who report. (11) *Response to all comments:* *DEQ revised the proposed rules to avoid duplicative reporting requirements and avoid creating reporting requirements for small gas stations. DEQ's revision would exempt persons from reporting fuels purchased from licensed fuel dealers, since licensed fuel*

	dealers would be reporting those fuels. Fuel facilities who obtain all of their fuel from a licensed fuel dealer would not be subject to Oregon's reporting requirements. *As recommended by Oregon's greenhouse gas reporting advisory committee, DEQ is working with the Oregon Department of Transportation fuels tax program to minimize the burden of reporting on gasoline, diesel and aircraft fuel distributors while ensuring the information collected on the forms is accurate. ODOT indicated it will revise its existing forms so licensed fuel dealers would report all fuels handled by the dealer. Currently, licensed fuel dealers are not required to report certain fuels to ODOT. If ODOT successfully revises their rules and forms, DEQ anticipates few, if any, fuel dealers will be required to report to DEQ directly; however, DEQ will ensure reporting protocols for those facilities provide DEQ accurate emissions information.*
11) Natural gas suppliers	1) Williams Northwest Pipeline GP supports the notion of federal regulation to provide for a consistent approach to greenhouse gas emissions reporting and have concerns with Oregon DEQ's proposed rule changes that are inconsistent with EPA's reporting rule: 1. systems-based reporting rather than facility-based reporting, and 2. inclusion of natural gas transmission/transportation as a natural gas supplier. We request DEQ maintain facility-level greenhouse gas reporting, align its applicability definitions for the natural gas transmission source category with EPA's reporting rule and consequently remove natural gas transmission from OAR 340-215-0030(2)(b)(C)(iv). (13) a) We support facility-level reporting that is consistent with other Clean Air Act or state level regulatory programs. OAR 340-215-0030(2)(b)(A) and (B), 340-215-0040(3)(a) and OAR 340-215-0030(4) are consistent with facility-level reporting. It is our interpretation that transmission pipelines would be excluded from this reporting requirement as transmission pipelines provide shipper transportation services only and do not own the gas in the pipeline. EPA has made this clear in the federal reporting rule by defining natural gas suppliers as *local natural gas distribution companies (LDCs) that own or operate distribution pipelines that deliver natural gas to end users. Companies that operate interstate pipelines transmission or intrastate transmission pipelines are not part of this source category*. (13) b) OAR 340-215-0030(2)(b)(C)(iv) lists "Electricity and natural gas transmission and distribution systems" as a source that must register and report emissions. EPA has recognized the difficulty in defining a natural gas transmission pipeline system as a single source (i.e. facility) and does not include pipeline segments between compressor stations as sources. The majority of emissions from the transportation of natural gas occur at compressor stations, which are already included as sources required to report under OAR 340-215-0030(2)(b)(A) and (B). (13) *Response to all comments:* *DEQ revised the proposed rules to remove natural gas transmission from OAR 340-215-0030(2)(b)(C)(iv). DEQ agrees that pipeline segments between natural gas compressor stations have little to no greenhouse gas emissions and should not be classified as an emissions source in Oregon's greenhouse gas reporting rules. Natural gas transmission pipeline companies that provide shipper transportation services only and do not own the natural gas in the pipeline would not be subject to Oregon's reporting requirements.* *However, to ensure DEQ collects complete and accurate greenhouse gas emissions information, any natural gas transmission pipeline company who supplies natural gas to end users would be required to report greenhouse gas emissions to DEQ. Some end users have a*

	direct connection to natural gas pipelines. Since local distributors do not distribute this fuel, the fuel would not be reported to DEQ if DEQ were to align its definition of natural gas suppliers with EPA.
12) Propane importers	1) The Pacific Propane Gas Association supports the proposed rules. The proposed language for propane importers in OAR 340-215-0030 works for our members and makes the most sense for our industry. We appreciate DEQ staff for working with us to develop the language, which provided us the opportunity to report the same gallons, but cut the number of reporters by about 75%. (17) *Response:* *DEQ appreciates your support and your assistance in developing reporting rules for propane importers.*
13) Photo voltaic systems	1) The reporting requirement for electric generation units should explicitly exempt photovoltaic systems. (15) *Response:* *Owners or operators of electric generation units would be required to report emissions from photovoltaic systems if the total direct emissions from the units emitted 2,500 tons or more of carbon dioxide equivalent. DEQ does not anticipate that a photovoltaic system would meet the emissions threshold, but does not propose to categorically exempt these systems from reporting.*
14) Emissions factor for unspecified power	1) We support the proposed greenhouse reporting rules; however, we have concerns with OAR 340-215-0040(5)(E), which would allow reporters to use a default emissions factor of 1,100 pounds of carbon dioxide equivalent per megawatt hour (lbs/MWh) for unspecified power purchases or sales. (19, 10) a) The emissions factor represents cleaner power than is typically imported into Oregon and would underestimate the greenhouse gases attributed to power used in Oregon. Oregon is a net power importing state and most of the power imported into the state is from coal-fired plants in Montana and Utah. DEQ should choose a factor more representative of the power imported into the state. (19) b) It's possible reporters would import or export power produced by coal-fired power plants as unspecified power and benefit from the default emissions factor. The average U.S. coal emissions factor in 2008 was about 2,100 pounds of carbon dioxide equivalent per megawatt hour. If DEQ's default emissions factor were used for unspecified coal, the greenhouse gas emissions produced would be grossly underestimated. In addition, the rule may discourage power importers and in-state power purchasers from specifying the source of power. We believe that rules for attributing emissions to imported and unspecified power should be designed to minimize emission leakage, provide incentives for actual greenhouse gas reductions and ensure compatibility with energy markets. These objectives can only be achieved by applying a high default emission rate for unspecified power and establishing a reliable mechanism to allow any imported or purchased power with an emission rate lower than the default to claim a facility specific rate. (10) *Response:* *DEQ wants reporters to provide specific emission estimates for imported power to the greatest possible degree. DEQ chose the proposed default emissions factor for unspecified power after consulting with the Oregon Department of Energy, Oregon Public Utility*

	Commission and the greenhouse gas reporting advisory committee. *Project staff identified two questions key to determining what the default emission rate should be for unspecified power purchases:* *1) What geographic boundaries should be established to provide the necessary analysis framework to be able to incorporate the major flows of market power to Oregon utilities?* *2) What type of power generation resources should be assumed to provide the power supplied to the power market within the geographic boundaries determined in (1) above?* *It is true that much of the imported power comes from coal. However, the majority of that power comes from power purchase agreements from known entities. It would be unlawful for accompany to report that power as unspecified power. According to Public Utility Commission staff and other industry experts, the majority of unspecified power would come from peaking plants and other non-coal sources.* *When faced with a similar task in California, the California Public Utilities Commission and California Energy Commission recommended the California Air Resources Board use an interim default emissions factor of 1,100 lbs/MWh for unspecified power, which the board adopted until future analyses are available to develop a more precise default factor or facility-specific factor.* *The default factor chosen be DEQ is supported by two analyses that focus on the Pacific Northwest market power: Washington State University's Energy Extension Program estimates the net mix average at about 1,100 lbs/MWh. Analyses by the Northwest Power and Conservation Council point to a range of about 700 lbs/MWh to 1,300 lbs/MWh. In addition, PacifiCorp and other entities already reporting to California use the default factor of 1,100 lbs/MWh.* *DEQ believes the proposed default factor is representative of power imported to Oregon at this time. However, DEQ could propose a change to the default factor in Oregon's rule in the future, if future analyses provide more certainty around a default emissions factor estimate. Because Oregon's greenhouse gas reporting rules are not associated with emission limits, DEQ does not have evidence to suggest utilities would manipulate the market in order to report power produced by coal-fired power plants as unspecified power or falsely represent power as unspecified.*
15) Errors	1) In OAR 340-215-0040 Table 1 Part 2, NO_2 should be N_2O. (3,7) 2) In OAR 340-215-0040 Table 1 Notes, "mmBtu means million metric British thermal units" should likely be "mmBtu means million British thermal units". (7) *Response to all comments:* *DEQ revised the proposed rules to correct these errors.*

List of People Submitting Comments (by Commenter Number)			
Number	Name	Organization	Receive date
1	David Schoenbeck	Electro-Chem Metal Finishing, Inc.	6/16/2010
2	Art Pernsteiner, Plant Manager - Medford	Linde Electronics and Specialty Gases A division of Linde Gas North America LLC	6/16/2010
3	Frank Dick, P.E., Industrial Pretreatment Coordinator	City of Vancouver - Engineering Services	6/16/2010

4	John Clark		6/21/2020
5	Mitch Jorgensen, President	Molalla Redi-Mix & Rock Products, Inc.	7/7/2010
6	Tom Manton, Natural Resources Division Manager	Douglas County Public Works Department	6/17/2010
7	Janet Gillaspie, Executive Director	Oregon Association of Clean Water Agencies	7/20/2010
8	Emily Ackland, Environmental Coordinator/Policy Manager	Association of Oregon Counties	7/20/2010
9	Kathryn VanNatta, Governmental Affairs Manager	Northwest Pulp and Paper Association*	7/21/2010
10	Barbara McBride, Director, Environmental, Health and Safety	Calpine Corporation	7/21/2010
11	Jana Gastellum, Program Director, Global Warming	Oregon Environmental Council	7/21/2010
12	Rick Jerabek, Legal/Property Management	Costco Wholesale	7/21/2010
13	Scott Peters, Environmental Engineer	Williams Northwest Pipeline	7/21/2010
14	George R. Lowe, Chief Operating Officer	Blue Heron Paper Company	7/21/2010
15	David J. Breen, Air Quality Program Manager/Environmental Project Manager	Port of Portland	7/21/2010
16	Leonard J. Goodwin, Assistant Public Works Director	City of Springfield	7/20/2010
17	Baron Glassgow, Executive Director	Pacific Propane Gas Association	7/19/2010 (verbal and written)
18	Gordon W. Summers	Summers Ranch Rock Quarry	7/18/2010
19	Thane Jennings	Calpine Corporation	7/16/2010
20	Michelle Langdon, Civil Engineer	Lane County Public Works, Waste Management Division	7/16/2010
21	Joe Romaker	Oregon Environmental Council	7/19/2010

*Submitted on behalf of Oregon members including Boise Inc., Blue Heron Paper Company, Cascade Pacific Pulp, Georgia Pacific, International Paper and SP Newsprint. The Northwest Pulp and Paper Association also supports comments submitted by its members.

State of Oregon
Department of Environmental Quality **Memorandum**

Presiding Officer's Report

Date: September 2, 2010

To: Environmental Quality Commission

From: Wayne Kauzlarich, Mark Bailey and Shelley Matthews, DEQ

Subject: Presiding officers' report for rulemaking hearings
Title of proposal: Oregon Greenhouse Gas Reporting Rules

Hearing one

Date and time: July 15, 2010, beginning at 6:00 p.m.
Location: DEQ - Medford Regional Office
Conference Room
221 Stewart Ave, Suite 201
Medford, OR 97501

DEQ convened the rulemaking hearing on the proposal referenced above at 6:50 pm and closed it at 7:53 pm. DEQ asked the person in attendance to sign a registration form if he wished to present comments. DEQ advised the attendee that the hearing was being recorded.

Andrea Curtis briefly explained the rulemaking proposal and Wayne Kauzlarich explained the procedures for the hearing. One person attended the hearing and he did not testify or provide written comments.

Hearing two

Date and time: July 16, 2010, beginning at 6:00 p.m.
Location: DEQ - Bend Regional Office
Conference Room
475 NE Bellevue Dr., Suite 110
Bend, OR 97702

DEQ convened the rulemaking hearing on the proposal referenced above at 6:52 pm and closed it at 6:59 pm. DEQ asked those in attendance to sign registration forms if they wished to present comments. DEQ advised attendees that the hearing was being recorded.

Before taking comments, Ms. Curtis briefly explained the rulemaking proposal and Mark Bailey explained the procedures for the hearing. Three people attended the hearing; two people testified.

The following is a summary of comments received at the hearing. DEQ will include these comments in the summary of comments and agency responses for the rulemaking.

Oral Testimony

Thane Jennings, Calpine Corporation
Calpine Corporation has ninety power plants in the U.S. with one plant in Hermiston, Oregon. We're the largest independent power producer of electricity in the U.S. We have the cleanest fleet of power plants in the U.S. We have no coal fire generation and won't ever have coal fire generation. We just bought some older power plants in the east including two coal fired power plants and we're converting those to natural gas.

Overall, we support greenhouse gas reporting. We have a problem with the default greenhouse gas emissions factor in the proposed rule. It represents cleaner power than is typically imported into Oregon. Oregon is a net power importing state and most of the power imported into the state is from coal fired plants in Montana and Utah. We think the emissions factor would underestimate the greenhouse gases attributed to use in Oregon. We would prefer DEQ choose a factor more representative of the power imported into the state.

Michelle Langdon, Civil Engineer, Lane County Public Works, Waste Management Division
Ms. Langdon encouraged DEQ to align with EPA's regulations regarding reporting requirements for closed landfills, where closed landfills report only if they have accepted garbage in the last thirty years. We have several closed landfills and may not know where some of them are located. It would be difficult to find those landfills and difficult to find out what is in them. Ms. Langdon thinks it would be beneficial to align with EPA in any way we can, other than stricter regulations like the 2,500 limit instead of 25,000 limit, but just as far as reporting and calculations. It would be helpful if we could do one set of calculations, instead of two completely different sets and two completely different reports. It be great if we could do one and submit this to both agencies.

Hearing three

Date and time:	July 19, 2010 beginning at 6:00 p.m.
Location:	DEQ Headquarters, EQC A 811 SW Sixth Avenue Portland, OR 97204

DEQ convened the rulemaking hearing on the proposal referenced above at 6:25 pm and closed it at 7:10 pm. DEQ asked those in attendance to sign registration forms if they wished to present comments. DEQ advised attendees that the hearing was being recorded.

Before taking comments, Ms. Curtis briefly explained the rulemaking proposal and Shelley Matthews explained the procedures for the hearing. Nine people attended the hearing; two people testified.

The following is a summary of oral comments received at the hearing. DEQ received written comments at the hearing from Baron Glassgow of Pacific Propane Gas Association. DEQ will include oral and written comments in the summary of comments and agency responses for the rulemaking.

Oral Testimony

Joe Romaker, Oregon Environmental Council
Mr. Romaker provided the following comments:

- Oregon Environmental Council asks that DEQ take up the Legislature's invitation in Senate Bill 38 to have legislative authority to establish fees for all reporting sources.
- We encourage DEQ to work with the Oregon Department of Transportation regarding fuel tax reports and to make sure the data is as accurate as reporting directly to DEQ.
- We ask that emissions data be available to the public on the webpage in a user-friendly format just as the reporting forms are easily accessible online. The data should be also available with a breakdown of all the different sources categories, stationary, mobile as well as individual companies/reporting sources.
- We thank the leadership of Governor Kulongski and DEQ for expanding the reporting program from just stationary sources to include mobile sources and natural gas and for setting a high bar of leadership with Oregon's emissions threshold. We encourage DEQ to be a leader where the federal government and Western Climate Initiative lacked action.

Baron Glassgow, Executive Director, Pacific Propane Gas Association
Our association recently changed its name from the Northwest Propane Gas Association as we added Hawaii to our membership. The association now represents the propane industry in Oregon, Washington, Alaska and Hawaii.

We're here to support the proposed rules. Members of our industry participated in the advisory committee and I made a presentation to the advisory committee a couple months ago. The propane industry is affected in section 340-215-0030 under the section titled propane importers. Working with staff, we were able to develop language that provided us the opportunity to report the same gallons, but cut the number of reporters by about 75%. We're grateful to staff for working with us and it really makes sense for our industry.

Oregon Department of Environmental Quality
Chapter 340 Rulemaking

Statement of Need and Fiscal and Economic Impact

Rule Caption:
Greenhouse gas reporting requirements, fees and program updates

This form accompanied a Notice of Proposed Rulemaking Hearing

Title of Proposed Rulemaking	Oregon Greenhouse Gas Reporting Rules Divisions 215, 216 and 220
Statutory Authority or other Legal Authority	ORS 468.020, ORS 468A.050 and ORS 468A.280
Statutes Implemented	ORS 468 and 468A
Need for the Rule(s)	Global warming poses a serious threat to Oregon's economy, environment and public health. Greenhouse gas reporting is crucial for Oregon to track and evaluate its greenhouse gas emissions. The Environmental Quality Commission adopted rules in 2008 that require certain industrial sources, in-state power generators, landfills, wastewater treatment plants and electricity and natural gas transmission and distribution systems to report greenhouse gas emissions to DEQ. The proposed rules expand the reporting requirements to additional emissions categories, establish fees and update the reporting program. New emission categories The proposed rules create registration and reporting requirements for electricity suppliers and fuel distributors. DEQ needs reporting from electricity suppliers (including greenhouse gas emissions associated with the generation and transmission of imported power) and fuel distributors to have accurate, comprehensive emissions information because these categories account for approximately two thirds of total greenhouse gas emissions for the state. The proposed rule changes described below regarding fees and reporting cessation are not applicable to the new emissions categories added by the rulemaking. Fees The proposed rules also affect existing greenhouse gas reporters and establish fees for sources subject to the reporting rules that hold air quality permits with DEQ. In December 2009, EQC adopted a temporary rulemaking to establish fees. The proposed rules would establish the fees through regular, permanent rulemaking. DEQ needs fee revenue to cover costs of developing and implementing the greenhouse gas reporting program and fill two staff positions approved in DEQ's 2009-2011 budget. Annual revenue from the fees would be used only for program expenses and the proposed fee levels are expected to cover anticipated program costs through 2015.

	Other updates • The proposed rules expand DEQ discretion on circumstances it can defer or exempt facilities from reporting. For example, some emission categories may lack adequate protocols to calculate greenhouse gas emissions. • The proposed rules contain reporting cessation criteria. Pursuant to the existing rules, certain sources are required to report annual greenhouse gas emissions if their emissions are 2,500 metric tons or more of carbon dioxide equivalent. The proposed rules would require sources to continue reporting each year regardless of the amount of emissions in future years, but provide for sources to cease reporting if their direct emissions are below the threshold for three consecutive years. This would allow sources that reduce emissions below the threshold to stop reporting, but prevent the situation where a source near the threshold could move in and out of the reporting program due to small variations in emissions from one year to the next. The proposed rules are necessary to prevent tracking difficulties for DEQ. They would also reduce uncertainty for sources on whether to report. • The proposed rules avoid redundant reporting requirements and assure consistency in reporting by aligning Oregon's requirements with federal greenhouse gas reporting rules for reporters that are subject to both Oregon and federal reporting. • The proposed rules eliminate tables one and two in the rules in 2011 and instead require all permitted sources above the reporting threshold to report.
Documents Relied Upon for Rulemaking	Documents relied upon to provide the basis for this proposal include: • 2009-2011 Legislatively Approved Budget • 2009-2011 Revenue Forecast • Senate Bill 38 (2009) • Senate Bill 103 (2009) • Oregon Revised Statutes (ORS 468.020, ORS 468A.050 and ORS 468A.280) • Oregon Greenhouse Gas Reporting Advisory Committee Report (2010) Copies of these documents are available for review from DEQ's headquarters office at 811 SW Sixth Avenue, Portland, Oregon 97204. Please contact Andrea Curtis at 503-229-6866 or toll free in Oregon at 800-452-4011 to request copies.
Requests for Other Options	**Pursuant to ORS 183.335(2)(b)(G), DEQ requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.**
Fiscal and Economic Impact, Statement of Cost Compliance	
Overview	New emission categories The proposed reporting requirements for electricity suppliers and fuel

distributors would have fiscal and economic impacts on the categories of businesses described below. The approximate numbers of businesses are shown in parentheses.

- Gasoline, diesel and aircraft fuel distributors (155)
- Propane importers (10)
- Natural gas suppliers (4)
- Investor owned utilities (3)
- Electricity service suppliers (4)
- Consumer owned utilities (37)
- Other electricity suppliers (unknown)

Beginning in 2011, affected businesses would report greenhouse gas emissions to DEQ for the previous year. To minimize the reporting burden, DEQ plans to develop reporting protocols and forms pursuant to the rules that combine greenhouse gas reporting with existing reporting as much as possible. DEQ would allow businesses to satisfy the requirements through concurrent reporting to other state agencies and the Unites States Environmental Protection Agency where possible. In addition, the proposed rules contain criteria for consumer owned utilities to satisfy the requirements through third party reporting.

Fees

DEQ estimates the proposed fees would have fiscal and economic impacts on about 180 sources subject to the existing reporting rules, which are required to obtain permits pursuant to ORS 468A.040, ORS 468A.155 or ORS 468A.310. This includes a subset of sources that hold air contaminant discharge permits with DEQ, such as asphalt plants and steel foundries. This also includes a subset of sources that hold operating permits with DEQ under Title V of the federal Clean Air Act, such as pulp and paper mills and in-state power generators.

The proposed fees are fifteen percent of the permit fees currently paid by affected sources; however, DEQ would cap the proposed fees at $4,500 for any individual source. The table below describes the estimated numbers of sources by permit type and the proposed greenhouse gas fees. DEQ was conservative in estimating the number of businesses who might be subject to fees and therefore may have overestimated. Sources holding air contaminant discharge permits currently pay annual fees by permit type. Sources holding Title V operating permits currently pay annual fees correlated with their emissions of regulated air pollutants. DEQ would collect the proposed fees with annual permit fees, but may need to issue supplemental invoices for sources in the first year of rule implementation.

Proposed greenhouse gas reporting fees and approximate numbers of sources required to report:

Air contaminant discharge permit types:	Number of sources required to report	Proposed annual greenhouse gas reporting fee

Basic	1	$54
General 1	0	$108
General 2	26	$194
General 3	9	$281
Simple Low	4	$288
Simple High	4	$576
Standard	53	$1,152

Title V permits	Number of sources required to report	Proposed annual greenhouse gas reporting fee
	24	15 percent ($800 - $2,499)
	27	15 percent up to $4,499 ($2,500 - $4,499)
	33	capped at $4,500

<u>Other updates</u>
The proposed criteria for reporting cessation would have fiscal and economic impacts on sources whose emissions drop below the threshold. Small emitters near the reporting threshold are the most likely sources to be affected by the criteria; however, the criteria could also affect large emitters who significantly reduce emissions.

Because the proposed rules eliminate tables one and two from the rules in 2011 and instead require all permitted sources above the reporting threshold to report, it's possible additional sources holding air contaminant discharge permits would be subject to greenhouse gas reporting. The original intent of the tables was to make it easier for sources to determine whether they are subject to the reporting rules, but DEQ felt the tables might create loopholes.

Sources in Lane County may experience fiscal and economic impacts because the rules direct the Lane Regional Air Protection Agency to implement the rules within its jurisdiction.

Impacts on the General Public

DEQ does not anticipate any direct fiscal or economic impacts from the proposed rules on the general public. However, indirect fiscal or economic impacts to the public may occur through increased prices for services or products as a result of costs associated with reporting of greenhouse gas emissions and greenhouse gas reporting fees. DEQ expects any such price increases to be small and lacks available information upon which it could accurately estimate actual potential increases.

Global warming may create public health problems that can have negative economic impacts. The proposed rules could create positive economic benefits and improvements in public health and welfare because greenhouse gas reporting will help DEQ understand Oregon's overall emissions, which will better equip DEQ and EQC to evaluate progress toward state greenhouse gas reduction goals, pursue local policies and actions to reduce emissions, and inform and shape national policies in ways that benefit Oregon residents and businesses.

Impacts to Small Business
(50 or fewer employees – ORS183.310(10))

The proposed rules would require small businesses with and without air permits to comply with new requirements.

<u>New emission categories</u>
Although there are no fees associated with the new emissions categories added by the rulemaking, the reporting and compliance costs are described in the Cost of Compliance section.

<u>Fees for existing permit holders</u>
Approximately eleven small businesses would be affected by the proposed fees. The table below describes the estimated numbers of sources by permit type and the proposed fee.

Proposed greenhouse gas reporting fees and approximate numbers of small businesses required to report:

Air contaminant discharge permit types:	Number of sources required to report	Proposed annual greenhouse gas reporting fee
Basic	0	$54
General 1	0	$108
General 2	0	$194
General 3	0	$281
Simple Low	1	$288
Simple High	1	$576
Standard	1	$1,152
Title V permits	**Number of sources required to report**	**Proposed annual greenhouse gas reporting fee**
	6	15 percent ($800 - $2,499)
	2	15 percent up to $4,499 ($2,500 - $4,499)
	0	$4,500

<u>Other updates</u>
Sources that drop below the reporting threshold would continue to be subject to reporting requirements and fees for three years after dropping below the threshold.

The proposed rules could have indirect fiscal and economic impacts on small businesses because costs associated with reporting of greenhouse gas emissions and greenhouse gas reporting fees could be passed through by reporters, resulting in a slight increase in the costs of products or services provided by reporters.

Cost of Compliance on Small Business (50 or fewer employees – ORS183.310(10))	a) Estimated number of small businesses subject to the proposed rule	DEQ estimates approximately 100 small businesses would be subject to the new reporting requirements and eleven small businesses would be subject to the proposed fees. Although only businesses that drop below the threshold would experience an impact from the reporting cessation criteria, eleven small businesses holding air quality permits would be subject to the criteria. In addition, small businesses covered by the existing rules but which don't hold air quality permits would be subject to the criteria. These facilities are exempt from reporting until DEQ finalizes reporting protocols.
	b) Types of businesses and industries with small businesses subject to the proposed rule	<u>New emission categories</u> Small businesses subject to the proposed reporting requirements include fuel distributors, propane wholesalers and consumer owned utilities. <u>Fees and reporting cessation</u> Small businesses subject to the proposed rules are in the following industries: commercial boilers, electric power generation, petroleum refining, sewage treatment facilities, landfills and wood products manufacturing.
	c) Projected reporting, recordkeeping and other administrative activities required by small businesses for compliance with the proposed rule, including costs of professional services	<u>New emission categories</u> The proposed rules would require data collection and analysis, recordkeeping, reporting and other annual administrative activities. This will result in costs to affected sources to comply with these rules. These activities include but are not limited to: • Initial and ongoing training on emissions accounting and quantification methodologies; • Emissions data collection and analysis for greenhouse gases, annually; and • Preparation and submittal of completed registration and reporting forms annually. Licensed fuel distributors may qualify for concurrent reporting to other state agencies. Consumer owned utilities may qualify for third party reporting. DEQ estimates that initial set up may require about one 8-hour day. Annual reporting of the data may require ½ day (4 hours) per year. The total estimated cost for these businesses, assuming an hourly wage of $50/hour, would be $400 for initial set-up of the greenhouse

		gas reporting system and $200 per year on an ongoing basis. <u>Fees</u> Businesses subject to the greenhouse gas reporting fee would experience administrative and accounting costs associated with paying fees. DEQ anticipates these costs would be minimal because DEQ would collect the proposed fees with sources' annual permit fees. <u>Reporting cessation</u> Businesses would continue to report unless emissions drop below the threshold for three consecutive years. This would result in costs to affected sources to comply with these rules, who otherwise would not continue reporting under the existing rules. Reporting activities include but are not limited to: • Emissions data collection and analysis for greenhouse gases, annually; and • Preparation and submittal of completed registration and reporting forms annually. Since sources already report the data, DEQ estimates that continued reporting may require ½ day (4 hours) per year. The total estimated cost of continued reporting, assuming an hourly wage of $50/hour, would be $200 per year for each source.
	d) The equipment, supplies, labor, and increased administration required by small businesses for compliance with the proposed rule	Small businesses may encounter additional costs for equipment (such as a computer) and labor for setting up and reporting their greenhouse gas emissions, which will vary by business. Businesses that currently report air quality data to DEQ or qualify for concurrent reporting or third party reporting may have lesser needs for additional equipment and labor. DEQ does not have adequate information at this time to estimate the amount of additional equipment and labor (apart from estimates in (c) above) and any such estimate would be speculation.
	e) A description of the manner in which DEQ involved small businesses in the development of this rulemaking	DEQ worked with the stakeholders on the 2009 legislation authorizing EQC to create reporting requirements for electricity suppliers and fuel distributors. This included Oregon Petroleum Association, Northwest Propane Gas Association, power company representatives and associations representing consumer owned utilities. In 2009, as

		part of its legislative budget process, DEQ submitted to the legislature information about greenhouse gas reporting program funding and the need to propose fees. DEQ involved businesses in the development of this rulemaking through the greenhouse gas reporting advisory committee. Several members represent small businesses or organizations that have small business as members or clients. In September 2009, DEQ sent letters to businesses it anticipated might be subject to the proposed fees to describe DEQ's intent to propose this rulemaking. The letters also described the role of the committee and opportunities to comment and attend committee meetings. DEQ published information about the proposal on its website and used an on-line subscription delivery service to notify businesses about the committee meetings and rulemaking proposal. This includes over 2,400 people subscribed to receive updates on climate change issues and over 600 people subscribed to receive updates about the rulemaking proposal and committee. DEQ will send a Notice of Proposed Rulemaking to businesses affected by the rules and interested parties in June 2010. DEQ will hold public hearings to provide for the regulated community and interested parties to comment on the rule.
Impacts on Large Business (all businesses that are not "small businesses" under ORS183.310(10))	New emission categories The proposed reporting requirements for electricity suppliers and fuel distributors could have a direct fiscal and economic impact on approximately 113 large businesses. The costs of compliance on large businesses are expected to be the same as those estimated for small businesses. A number of large businesses already report air quality data to DEQ and may qualify for concurrent reporting to other state agencies or EPA or qualify for third party reporting. Fees and reporting cessation The proposed fees would have a direct fiscal and economic impact on approximately 169 large businesses. The overview section of this document describes the proposed fees. The proposed criteria for reporting cessation would have impacts on large businesses that drop below the reporting threshold. The costs of compliance on large businesses are expected to be the same as those estimated for small businesses. The proposed rules could have indirect fiscal and economic impacts on large businesses because costs associated with reporting of greenhouse gas emissions and greenhouse gas reporting fees could be passed through by reporters, resulting in a slight increase in the costs of products or services provided by	

<table>
<tr><td></td><td>reporters.</td></tr>
<tr><td>Impacts on Local Government</td><td>
<p><u>New emission categories</u>
The proposed reporting requirements for electricity suppliers would have direct fiscal and economic impacts on approximately nineteen municipal utilities and public utility districts. The costs of compliance on local governments are expected to be the same as those estimated for small businesses.</p>
<p><u>Fees and reporting cessation</u>
The proposed fees and criteria for reporting cessation could have direct fiscal and economic impacts on one district and one local city government that hold air quality permits. The table below describes the sources and approximate annual fees.</p>
<table>
<tr><th>Local government</th><th>Proposed annual greenhouse gas reporting fee</th></tr>
<tr><td>Metropolitan Service District St. Johns Landfill</td><td>$1,219</td></tr>
<tr><td>Coos County Solid Waste Department</td><td>$2,179</td></tr>
</table>
<p>The proposed criteria for reporting cessation could have impacts on an additional seventy local government sources, primarily solid waste disposal facilities and wastewater treatment facilities. Most of these sources don't hold air quality permits and are exempt from reporting until DEQ approves reporting protocols. Once protocols are approved, about five sources, which hold air quality permits, would be subject to greenhouse gas reporting fees ranging from $576 to $1,152 depending on permit type. The costs of compliance on local governments are expected to be the same as those estimated for small businesses.</p>
<p>Lane Regional Air Protection Agency would experience a fiscal and economic impact because the rules direct the agency to implement the rules within its jurisdiction. DEQ does not have available information sufficient to estimate those impacts, and any such estimate would be speculative, although the tasks will be similar to those described under "Impacts to DEQ" below.
The proposed rules could have indirect fiscal and economic impacts on local governments because costs associated with reporting of greenhouse gas emissions and greenhouse gas reporting fees could be passed through by reporters, resulting in a slight increase in the costs of products or services provided by reporters.</p>
</td></tr>
<tr><td>Impacts on State Agencies other than DEQ</td><td>
<p><u>New emission categories</u>
No state agencies are subject to the proposed reporting requirements for electricity suppliers and fuel distributors. The Oregon Department of Energy, Oregon Public Utility Commission and Oregon Department of Transportation assisted DEQ in the development of the reporting requirements. They are not directly impacted by this rule, but may be impacted if they continue assisting DEQ during implementation of the rules including development of reporting protocols, emission factors and reporting forms. DEQ does not have sufficient</p>
</td></tr>
</table>

information to estimate those impacts, and any such estimate would be speculative.

Fees and reporting cessation

The proposed rules could have direct fiscal and economic impacts on seven state agencies that hold air quality permits. The costs of compliance on state agencies are expected to be the same as those estimated for small businesses. The table below describes the sources and approximate annual fees.

State agency	**Proposed annual greenhouse gas reporting fee**
Oregon Air National Guard	$1,152
Oregon State Correctional Institution	$194
Oregon State Penitentiary	$1,152
Oregon State University	$1,152
Portland State University	$288
Two Rivers Correctional Institution	$194
Western Oregon University	$194

The proposed rules could have indirect fiscal and economic impacts on state agencies because costs associated with reporting of greenhouse gas emissions and greenhouse gas reporting fees could be passed through by reporters, resulting in a slight increase in the costs of products or services provided by reporters.

Impacts on DEQ

New emission categories

The proposed reporting requirements for electricity suppliers and fuel distributors would create new sources, which may require work by the Office of Compliance and Enforcement. Although DEQ would combine greenhouse gas reporting with existing reporting as much as possible, the proposed rules will fiscally and economically impact DEQ by requiring DEQ to perform the following tasks:

- Develop calculation methodologies and emission factors;
- Develop reporting guidance and calculation tools;
- Modify or create industry-specific emissions reporting forms for greenhouse gas emissions;
- Modify existing DEQ databases to store and retrieve the data;
- Create industry-specific notification for sources subject to reporting prior to the beginning of the initial reporting year;
- Train sources subject to reporting, and provide technical assistance, prior to the beginning of the initial reporting year;
- Revise DEQ's website to include information regarding emission reporting requirements, resources and links;
- Review and verify annual greenhouse gas reports and ensure compliance with reporting rules;
- Prepare greenhouse gas emissions inventory and report to the Oregon

	Department of Energy; - Maintain DEQ's greenhouse gas reporting website; and - Maintain computer software and update guidance and forms as needed. Fees and reporting cessation Revenue from the proposed fees would provide resources necessary for DEQ to implement the reporting program. New fees and additional sources will require additional work by Accounting and system updates may be required from Business Systems Development. The criteria for reporting cessation could have positive impacts on DEQ because it would stabilize the reporting universe, enabling DEQ to know who is subject to reporting and fees each year. The proposed rules could have indirect fiscal and economic impacts on DEQ because costs associated with reporting of greenhouse gas emissions and greenhouse gas reporting fees could be passed through by reporters, resulting in a slight increase in the costs of products or services provided by reporters.
Assumptions	DEQ relied on feedback received from the greenhouse gas reporting advisory committee in 2008 to estimate the cost of compliance for businesses. DEQ established fee levels based on assumptions that it identified all facilities subject to the reporting rules and that the number of reporters will remain approximately the same from year to year.
Housing Costs	DEQ determined that the proposed fees may have a negative impact on the development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel if the fees are passed through by sources providing products and services for such development and construction. The possible impact appears to be minimal. DEQ cannot quantify the impact at this time because the information available to it does not indicate whether the fees would be passed on to consumers and any such estimate would be speculative.
Administrative Rule Advisory Committee	DEQ convened the Oregon greenhouse gas reporting advisory committee in 2007 to make recommendations on the initial greenhouse gas reporting rules adopted in 2008. DEQ reconvened the committee in 2009 to make recommendations on changes proposed by this rulemaking. The committee includes Chair Mark Reeve and twenty three members representing various stakeholder interests. The committee met five times from September 2009 through April 2010. The committee made recommendations for updating the reporting program as described in the committee report available upon request. The recommendations are reflected in the proposed rules. The committee reviewed whether the proposed rules will have a fiscal impact, what the extent of impact will be, and whether the rule will have a significant impact on small business. The committee concluded the proposed rules would have a fiscal and economic impact on businesses. The committee felt the extent of the impact is outlined adequately in DEQ's draft Statement of Need and Fiscal and Economic Impact, which DEQ revised based on committee recommendations. The committee concluded the rules have a significant adverse impact on the small businesses DEQ indicated would be directly affected by draft rules. However, the committee felt that despite any possible adverse impact

	on small business, DEQ minimized costs as much as possible at this time. The committee did not believe there is a need at this time for additional mitigation steps outlined in ORS 183.540.

____________________________	Andrea Curtis__________	June 10, 2010
Prepared by	Printed name	Date
____________________________	Jim Roys______________	June 14, 2010
Approved by DEQ Budget Office	Printed name	Date

Oregon Department of Environmental Quality
Chapter 340 Rulemaking

Land Use Evaluation Statement

Rule Caption:
Greenhouse gas reporting requirements, fees and program updates

1. Explain the purpose of the proposed rules.

Greenhouse gas reporting is crucial for Oregon to track and evaluate its greenhouse gas emissions. Reporting will help the state understand its overall emissions, which will better equip us to evaluate progress toward state greenhouse gas reduction goals, pursue local policies and actions to reduce emissions and inform and shape national policies in ways that benefit Oregon residents and businesses. The Environmental Quality Commission adopted rules in 2008 that require certain industrial sources, in-state power generators, landfills, wastewater treatment plants and electricity and natural gas transmission and distribution systems to report greenhouse gas emissions to the Oregon Department of Environmental Quality. DEQ is proposing rules to expand the reporting requirements to additional emission categories, establish fees and update the reporting program.

The proposed rules create reporting requirements for electricity suppliers and fuel distributors. DEQ needs reporting from electricity suppliers and fuel distributors to have accurate, comprehensive emissions information because these categories account for approximately two thirds of total greenhouse gas emissions for the state. The proposed rules establish fees for reporting sources that hold air quality permits with DEQ. DEQ needs fee revenue to cover costs of developing and implementing the reporting program and fill two staff positions approved in DEQ's 2009-2011 budget. The proposed rules expand DEQ discretion on circumstances it can defer or exempt facilities from reporting. For example, some emission categories may lack adequate protocols to calculate greenhouse gas emissions. The proposed rules also avoid redundant reporting requirements and assure consistency in reporting by aligning Oregon's requirements with federal greenhouse gas reporting rules for reporters that are subject to both Oregon and federal reporting.

2. Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination (SAC) Program?

Yes X No_

a. If yes, identify existing program/rule/activity:

The proposed rules will affect existing DEQ permitting program activities that are considered land use programs (OAR Chapter 340, Divisions 45, 93-96, 216 and 218).

b. If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules?

Yes X No_ (if no, explain):

Existing procedures already adequately cover the impacts of the proposed rules. Although the proposed rules will revise data collection and reporting from facilities permitted by DEQ, the requirements for permitting and the review of each facility's land use impacts remain unchanged.

c. If no, apply the following criteria to the proposed rules.

Staff should refer to Section III, subsection 2 of the SAC document in completing the evaluation form. Statewide Goal 6 - Air, Water and Land Resources is the primary goal that relates to DEQ authorities. However, other goals may apply such as Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources; Goal 11 - Public Facilities and Services; Goal 16 - Estuarine Resources; and Goal 19 - Ocean Resources. DEQ programs and rules that relate to statewide land use goals are considered land use programs if they are:

1. Specifically referenced in the statewide planning goals; or

2. Reasonably expected to have significant effects on
   a. resources, objectives or areas identified in the statewide planning goals, or
   b. present or future land uses identified in acknowledged comprehensive plans.

In applying criterion 2 above, two guidelines should be applied to assess land use significance:

- The land use responsibilities of a program/rule/action that involved more than one agency, are considered the responsibilities of the agency with primary authority.
- A determination of land use significance must consider the Department's mandate to protect public health and safety and the environment.

In the space below, state if the proposed rules are considered programs affecting land use. State the criteria and reasons for the determination.

3. If the proposed rules have been determined a land use program under 2. above, but are not subject to existing land use compliance and compatibility procedures, explain the new procedures the Department will use to ensure compliance and compatibility.

Not applicable

Oregon Department of Environmental Quality
Chapter 340 Rulemaking

Relationship to Federal Requirements

Rule Caption:
Greenhouse gas reporting requirements, fees and program updates

Answers to the following questions identify how the proposed rulemaking relates to federal requirements and the justification for differing from, or adding to, federal requirements. This statement is required by OAR 340-011-0029(1).

1. Is the proposed rulemaking different from, or in addition to, applicable federal requirements? If so, what are the differences or additions?

Yes. The requirements of the proposed rules are different from applicable federal requirements. The Environmental Quality Commission adopted rules in 2008 that require certain air contaminant sources to report greenhouse gas emissions to the Oregon Department of Environmental Quality. DEQ's proposed rulemaking would expand the reporting requirements to additional emission categories, establish fees and update Oregon's greenhouse gas reporting program. The United States Environmental Protection Agency finalized federal greenhouse gas reporting rules in 2009. The federal program's reporting threshold is 25,000 tons per year while Oregon's threshold is 2,500 tons per year. There are no federal requirements for states to administer greenhouse gas reporting rules.

DEQ's proposal would require electricity suppliers and fuel distributors to report their greenhouse gas emissions annually to DEQ. Several facilities affected by DEQ's proposal are required to report greenhouse gas emissions to the federal program. DEQ's proposal would avoid redundant reporting requirements where possible by allowing facilities required to report to EPA to submit a copy of that report to DEQ in lieu of the registration and report required by Oregon's reporting rules. The proposed rules authorize DEQ to require the submission of additional information if the copy of the report submitted to the federal program is not sufficient to determine greenhouse gas emissions. Additional information would likely only be needed in situations where a report to EPA does not adequately delineate emissions according to state boundaries.

DEQ's proposal would establish fees for sources subject to Oregon's greenhouse gas reporting rules that are required to obtain air quality permits pursuant to ORS 468A.040, ORS 468A.155 and ORS 468A.310. This includes a subset of sources that hold air contaminant discharge permits with DEQ and a subset of sources that hold operating permits with DEQ under Title V of the federal Clean Air Act.

2. If the proposal differs from, or is in addition to, applicable federal requirements, explain the reasons for the difference or addition (including as appropriate, the public health, environmental, scientific, economic, technological, administrative or other reasons).

Global warming poses a serious threat to Oregon's economy, environment and public health. The Intergovernmental Panel on Climate Change Fourth Assessment Report (2007) states with very high confidence that human activities have led to global warming, which has led to increases in global average air and ocean temperatures, widespread melting of snow and ice, and rising global average sea level. Other changes include warmer and fewer cold days and nights over most land areas; warmer and more frequent hot days and nights over most land areas; and heavy precipitation events. If current greenhouse gas emission trends continue, Oregon may experience coastal and river flooding, snow pack declines, lower summer river flows, impacts to farm and forest productivity, energy cost increases, public health effects and increased pressures on many fish and wildlife species.

Governor Kulongoski developed an aggressive agenda to combat global warming and several initiatives are underway to reduce greenhouse gas emissions in Oregon. Greenhouse gas reporting is crucial for Oregon to track and evaluate its greenhouse gas emissions. Reporting will help the state understand its overall emissions, which will better equip us to evaluate progress toward state greenhouse gas reduction goals, pursue local policies and actions to reduce emissions and inform and shape national policies in ways that benefit Oregon residents and businesses.

DEQ needs reporting from electricity suppliers and fuel distributors to have accurate, comprehensive emissions information because these categories account for approximately two thirds of total emissions for the state. Oregon's program will provide DEQ more comprehensive information about Oregon's emissions than the federal program is able to do at this time. The federal program does not provide Oregon's emissions footprint because a large amount of emissions are not delineated by state boundaries. In addition, smaller Oregon sources are not captured under the federal rule.

DEQ needs fee revenue to cover costs of developing and implementing the greenhouse gas reporting program and fill two staff positions approved in DEQ's 2009-2011 budget. DEQ could not administer Oregon's reporting program without the proposed fees.

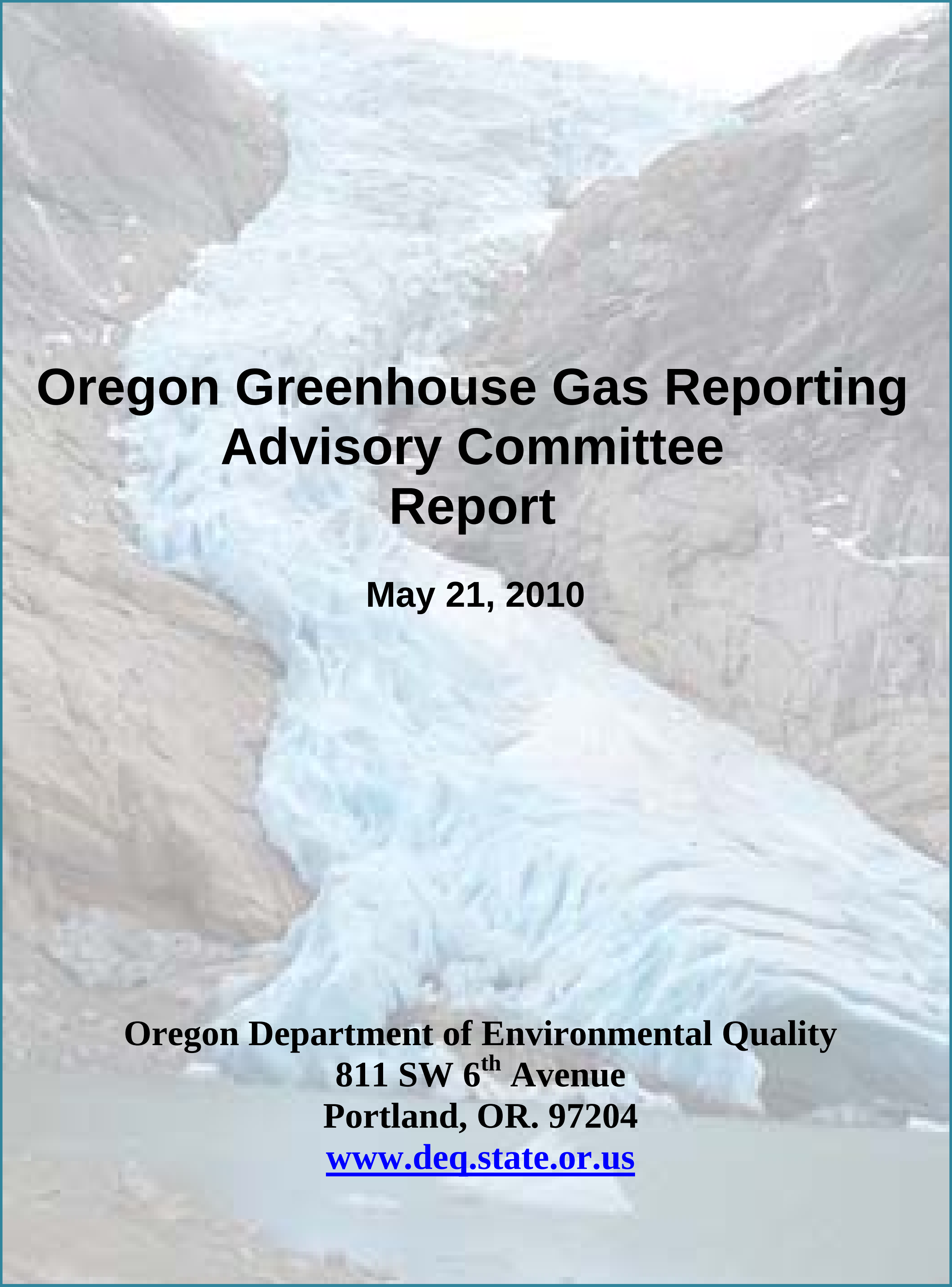
3. If the proposal differs from, or is in addition to, applicable federal requirements, did DEQ consider alternatives to the difference or addition? If so, describe the alternatives and the reason(s) they were not pursued.

DEQ considered alternatives during rule development. Several alternatives and the reasons why they were not pursued are described below.

(a) Since EPA finalized federal greenhouse gas reporting rules, DEQ considered options to eliminate Oregon's reporting program or align Oregon's reporting threshold with EPA's reporting threshold. Oregon's threshold is 2,500 tons per year while EPA's threshold is 25,000 tons per year. DEQ rejected both options because Oregon wouldn't be able to collect accurate, comprehensive emissions information for this state without Oregon's reporting program.

(b) DEQ's proposal contains reporting requirements for persons who import propane for use in this state. As an alternative, DEQ considered using the American Petroleum Institute annual report on propane sales by state. Since reporting by propane dealers to the institute is voluntary, the institute estimates total sales from non-reporters through extrapolation. Although data in the institute's report may be accurate, DEQ rejected this option because it doesn't have a way to certify or verify the accuracy of the data. In addition, the report has a one-year data lag, which would delay DEQ's ability to collect and evaluate emissions data.

(c) DEQ's proposal contains reporting requirements for persons who import, sell or distribute diesel, gasoline and aircraft fuels for use in this state. As an alternative to requiring reporting of diesel fuels, DEQ considered using weight-mile tax data collected by the Oregon Department of Transportation. DEQ rejected this option because it doesn't have a way to verify the accuracy of the fuel quantities; weight-mile tax data estimates fuel quantities and contains data gaps.



Oregon Greenhouse Gas Reporting Advisory Committee Report

May 21, 2010

Oregon Department of Environmental Quality
811 SW 6th Avenue
Portland, OR. 97204
www.deq.state.or.us

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Introduction

The Oregon Department of Environmental Quality established the Oregon greenhouse gas reporting advisory committee in 2007 to make recommendations on the initial set of greenhouse gas reporting rules adopted by the Environmental Quality Commission in 2008. DEQ reconvened the committee in September 2009 to provide input on rule amendments to implement recent legislation and update the reporting program. This report serves as a record of the committee's recommendations.

Background

Global warming poses a serious threat to Oregon's economy, environment and public health. Several events in 2007 laid the groundwork for greenhouse gas reporting in Oregon. The Oregon Legislature adopted House Bill 3543 (2007) to create a global warming commission, a climate change research institute and establish state greenhouse gas reduction goals. Also in 2007, Oregon helped form the Western Climate Initiative, which is a partnership of several western states and Canadian providences that commits partners to participate in a multi-state reporting and verification system known as The Climate Registry. In addition, Governor Kulongoski asked EQC to consider adopting greenhouse gas reporting rules.

Greenhouse gas reporting is crucial for Oregon to track and evaluate its greenhouse gas emissions. Reporting will help the state understand its overall emissions, which will better equip us to evaluate progress toward state greenhouse gas reduction goals, pursue local policies and actions to reduce emissions and inform and shape national policies in ways that benefit Oregon residents and businesses.

The Oregon greenhouse gas reporting advisory committee helped develop the recommendation for the reporting rules adopted in 2008. The rules require certain industrial sources, in-state power generators, landfills, wastewater treatment plants and electricity and natural gas transmission and distribution systems to annually report greenhouse gas emissions to DEQ.

In 2009, DEQ reconvened the committee and began work on a rulemaking proposal to implement legislation and update the reporting program. The Oregon Legislature passed Senate Bill 38 (2009), authorizing EQC to create reporting requirements for electricity suppliers and fuel distributors, which account for about two thirds of total emissions for the state. The Legislature also passed Senate Bill 103 (2009) and DEQ's budget, authorizing EQC to create fees to fund the program and fill two legislatively approved staff positions. In 2009, the United States Environmental Protection Agency finalized federal reporting rules and the Western Climate Initiative released a model rule containing essential elements for collaborating states to incorporate into state reporting requirements. While EPA finalized federal reporting rules, Oregon's program has a lower emissions threshold than the federal rule and will provide DEQ more comprehensive information about Oregon's emissions than the federal program is able to do at this time.

DEQ's rulemaking proposal would enable it to collect more comprehensive emissions data, avoid redundant reporting requirements, assure consistency in reporting by aligning Oregon's reporting requirements with the federal rules and fund DEQ's work in the reporting program. While EQC is authorized to create fees for sources subject to the reporting rules established in 2008, it lacks authority to create fees for the electricity suppliers and fuel distributors added by Senate Bill 38. However, Senate Bill 38 directs DEQ to evaluate and report to the legislature on the funding mechanism for developing and implementing the greenhouse gas reporting program, including whether to establish fees for the two emission categories added by the bill.

Advisory Committee and Stakeholder Involvement Process

The Oregon greenhouse gas reporting advisory committee reconvened in September 2009. The committee was made up of citizens, local government representatives, environmental and business interests. The committee was charged with providing recommendations regarding implementation of Senate Bill 38 and Senate Bill 103 and updating the program. The objectives of the committee were to identify, discuss and make recommendations on program requirements and appropriate issues before DEQ began rulemaking.

The committee addressed criteria for greenhouse gas reporting from electricity suppliers and fuel distributors. This included who should be subject to emissions reporting and what, how and when they would report. Reporting criteria would establish data collection and calculation methodologies, include a process for verifying emissions data, determine levels of confidentiality where appropriate and reflect streamlining measures in Senate Bill 38.

The committee also addressed fees to be paid by reporting facilities, including the first year of fees adopted in 2009 through temporary rulemaking and the future years' fees to be proposed through regular rulemaking in 2010. The committee discussed whether there is a need to create fees for the electricity suppliers and fuel distributors added by Senate Bill 38 and provided recommendations on how to best align Oregon's reporting rules with the federal rules.

Pursuant to the Administrative Procedures Act, DEQ involved the committee in analysis of fiscal and economic impacts of the proposed rules.

All meetings were open to the public and included opportunities for public comment. In addition, the rulemaking process includes an opportunity for public comment prior to rule adoption. Citizens who wished to discuss proposals were encouraged to contact DEQ project staff.

DEQ created an on-line subscription service to notify the public of committee meetings and posted meeting materials on the Web. DEQ staff prepared briefing materials prior to each meeting and prepared meeting notes summarizing significant issues raised during discussion, issue resolution, committee recommendations regarding rulemaking and program implementation and other action items. The committee operated by consensus and strived to make recommendations on all identified issues.

This report summarizes the committee's recommendations and key discussions. It is a product of the committee and will be submitted to EQC. DEQ staff drafted this report and committee members reviewed it for completeness.

Committee membership

Mark Reeve, Chair	Reeve Kearns PC
Michael Armstrong	City of Portland Bureau of Planning and Sustainability
Pam Barrow	Northwest Food Processors Association
Shanna Brownstein	The Climate Trust/The Offset Quality Initiative
Kyle Davis	PacifiCorp
Angus Duncan	Bonneville Environmental Foundation
Jim Edelson	Oregon Interfaith Global Warming Campaign
Ed Elliott	Northwest Propane Gas Association
Sandy Flicker	Oregon Rural Electric Cooperative Association
Lee Fortier	Dry Creek Landfill
Janet Gillaspie	Oregon Association of Clean Water Agencies
Don Haagensen	Cable Huston et al./Waste Management
Brock Howell	Environment Oregon
Bob Jenks	Citizens' Utility Board of Oregon
Suzanne Lacampagne	Miller Nash LLP/Associated Oregon Industries
Brendan McCarthy	Portland General Electric
Holly Meyer	NW Natural
Tom O'Connor	Oregon Municipal Electric Utilities Association
Lynne Paretchan	Perkins Coie LLP
Danelle Romain	Oregon People’s Utility District Association; Oregon Petroleum Association
Scott Stewart	Intel Corporation
Kathryn VanNatta	Northwest Pulp and Paper Association
Tom Wood	Stoel Rives/Ash Grove Cement
Tom Zelenka	Schnitzer Steel/Cascade Steel Rolling Mills
Ex-officio members	
Andy Ginsburg	Oregon Department of Environmental Quality, Air Quality Administrator
Peter Cogswell	Bonneville Power Administration, Oregon Constituent Account Executive
Diana Enright	Oregon Department of Energy, Assistant Director
Merlyn Hough	Lane Regional Air Protection Agency, Director
Uri Papish	Oregon Department of Environmental Quality, Air Quality Program Operations Manager

Project staff

Brandy Albertson	Oregon Department of Environmental Quality, Emission Inventory Analyst
Andrea Curtis	Oregon Department of Environmental Quality, Greenhouse Gas Reporting Specialist
Bill Drumheller	Oregon Department of Energy, Senior Policy Analyst
Maury Galbraith	Oregon Public Utility Commission, Senior Economist and Program Manager

Meeting dates, locations and topics

The committee's five meetings are described below. The meetings were audio recorded and meeting notes are provided as appendices to this report. In addition to committee meetings, DEQ held workgroup sessions with stakeholders representing electricity suppliers and fuel distributors.

Date	Location[1]	Topics
September 23, 2009	NWR	• Project overview: Committee charter, timeline, background information including Oregon's existing reporting rule, the federal reporting rule, the Western Climate Initiative's model rule, Senate Bill 38 (2009), Senate Bill 103 (2009) and DEQ's budget for the program • Options for the first year's fee schedule
October 19, 2009	HQ	• Options for the first year's fee schedule • Additional DEQ budget information • Update on reporting protocols • Overview of Washington State's reporting rules • Electricity companies and power imports • Bonneville Power Administration and consumer owned utilities • Fuel supply and distribution in Oregon • Oregon's data needs
November 16, 2009	NWR	• Western Climate Initiative reporting requirements for imported power and existing electricity reporting protocols • Fuel information reported to Oregon Department of Transportation and data gaps • Fee recommendations • Natural gas distribution in Oregon • Propane gas distribution in Oregon
January 21, 2010	HQ	• Updates on project timeline, rulemaking for year one fees and workgroup sessions • Straw proposal: Reporting requirements for electricity suppliers and fuel distributors • Future years' fees
April 1, 2010	NWR	• Draft rules • Requirements of Administrative Procedures Act • Draft fiscal impacts of proposal • Draft committee report to EQC • Fees for Senate Bill 38 reporters

[1] NWR: DEQ Northwest Region, conference room A/B, 4th floor, 2020 SW 4th Avenue, Portland, OR 97201.
HQ: DEQ Headquarters, conference room EQC-A, 10th floor, 811 SW 6th Avenue, Portland, OR 97204.

Summary of Recommendations

Reporting requirements for electricity suppliers and fuel distributors
The committee made the following recommendations on reporting requirements for electricity suppliers and fuel distributors:

Reporting parties	Approximate number of reporters	Requirements
Gasoline, ethanol and diesels:		
• Fuel dealers licensed with the state of Oregon	155	• Beginning in 2011, parties must either: ➢ Annually register and report to DEQ; or ➢ Submit copies of their fuels tax reports filed with the Oregon Department of Transportation if the reports contain all information required by DEQ. o DEQ may require the submission of additional information if copies of the fuels tax reports are not sufficient to determine greenhouse gas emissions. o ODOT intends to propose rulemaking to revise its reporting forms. ODOT is involving DEQ so the forms collect all information required from fuel dealers for greenhouse gas reporting (e.g. non-taxed gasoline and diesel quantities; annual summaries). o ODOT is proposing to upgrade its fuels tax reporting database and may electronically collect information required by DEQ from fuel dealers for greenhouse gas reporting. In the interim, DEQ may require concurrent reporting from fuel dealers if necessary. • Parties must report gasoline, diesel and aircraft fuel quantities imported, sold and distributed in Oregon by fuel type for the previous calendar year. • Parties must report by March 31 on forms approved by DEQ.
• Persons who import, sell or distribute fuel for use in Oregon that is not subject to Oregon fuels tax and not sold or distributed through a licensed fuel dealer.	Unknown	
Natural Gas:		
Natural gas suppliers	4	• Parties must annually register and report beginning in 2011 natural gas quantities sold and distributed to end users in Oregon for the previous calendar year • Parties must report by March 31 on forms approved by DEQ
Propane:		
Propane wholesalers	10	• Parties must annually register and report beginning in 2011 propane quantities imported to Oregon for the previous calendar year. • Parties must report by March 31 on forms approved by DEQ.

Reporting parties	**Approximate number of reporters**	**Requirements**
Electricity:		
• Investor owned utilities • Electricity service suppliers	3 4	• Parties must annually register and report beginning in 2011 by June 1 on forms approved by DEQ. • Report greenhouse gas emissions from the generation of the electricity that was imported, sold, allocated or distributed to end users in this state during the previous year ➢ Greenhouse gas emissions from generating facilities owned or operated by the person reporting. ➢ Sulfur hexafluoride emissions from transmission equipment owned or operated by the person reporting. ➢ The number of megawatt-hours of electricity purchased by the person reporting, including information, if known, on the seller of the electricity to the person reporting and the original generating facility fuel type or types. ➢ An estimate of the amount of greenhouse gas emissions using a default greenhouse gas emissions factors established by EQC attributable to: o Electricity purchases made by a particular seller to the person reporting; and o Electricity purchases from an unknown origin or from a seller who is unable to identify the original generating facility fuel type or types. ➢ Electricity purchases for which a renewable energy certificate has been issued but subsequently transferred or sold to a person other than the person reporting. • A multi-jurisdictional company may rely upon cost allocation methodology approved by the Oregon Public Utility Commission for reporting emissions allocated in Oregon.

Reporting parties	Approximate number of reporters	Requirements
Electricity (continued):		
• Consumer owned utilities:		• Parties must annually register and report beginning in 2011 by June 1 on forms approved by DEQ. • A third party may submit the registration and report on behalf of a consumer owned utility, and the report may include information for more than one consumer owned utility, provided the report contains all information required for each individual consumer owned utility. • Report greenhouse gas emissions from the generation of the electricity that was imported, sold, allocated or distributed to end users in this state during the previous year: ➢ Report greenhouse gas emissions from the generation of electricity that was not purchased from the Bonneville Power Administration, but was generated by the utility. ➢ For electricity purchased from the Bonneville Power Administration, report the number of megawatt-hours of electricity purchased by the utility from BPA, segregated by the types of contracts entered into by the utility with BPA, and if known the percentage of each fuel or energy type used to produce electricity purchased under each type of contract. ➢ For electricity that was not purchased from the Bonneville Power Administration, and was not generated by the utility, report the number of megawatt-hours of electricity purchased by the utility, including information, if known, on the seller of the electricity to the utility and the original generating facility fuel type or types
➢ Electric Coops	19	
➢ People's Utility Districts	6	
➢ Municipal Electric Utilities	13	

DEQ incorporated recommendations by the committee into the proposed rules. As recommended by the committee, the rules provide DEQ the option to defer reporting in cases where there are inadequate protocols or reporting is technically unfeasible.

Recommendations on fees to be paid by reporting facilities

The proposed rules would establish fees for sources subject to Oregon's greenhouse gas reporting rules that are required to obtain permits pursuant to ORS 468A.040, ORS 468A.155 or ORS 468A.310. DEQ estimates approximately 180 sources would be subject to the fees. This includes a subset of sources that hold air contaminant discharge permits with DEQ and a subset of sources that hold operating permits with DEQ under Title V of the federal Clean Air Act.

Although some committee members raised concerns about the overall cost of the reporting program and fee levels, the committee agreed creating greenhouse gas reporting fees based on a percentage of a source's current permit fee with a cap is the best approach for structuring the new fees. There was consensus to establish the fees equal to fifteen percent of the permit fees paid by affected sources; however, DEQ will cap the reporting fee for any individual source. DEQ initially anticipated it would need to establish the cap at $6,000; however, because DEQ identified additional sources subject to greenhouse gas reporting, DEQ reduced the cap to $4,500. If DEQ were able to reduce the fee, the committee recommended DEQ reduce the cap to the extent possible, rather than reduce the percent assessed on permit fees. The fees adopted in the temporary rulemaking in December 2009 would be replaced by the fees proposed in the regular rulemaking in 2010. The table below describes the approximate fee levels and numbers of facilities who would be subject to fees as of the date of this report.

Proposed greenhouse gas reporting fees and numbers of sources required to report:

Air contaminant discharge permit types:	**Number of sources required to report**	**Proposed annual greenhouse gas reporting fee**
Basic	1	$54
General 1	0	$108
General 2	26	$194
General 3	9	$281
Simple Low	4	$288
Simple High	4	$576
Standard	53	$1,152
Title V permits	**Number of sources required to report**	**Proposed annual greenhouse gas reporting fee**
	24	15 percent ($800 - $2,499)
	27	15 percent up to $4,499 ($2,500 - $4,499)
	33	$4,500

Discussion of fees for electricity suppliers and fuel distributors added by Senate Bill 38

Senate Bill 38 directs DEQ to report back to the legislature after evaluating the funding mechanism for developing and implementing the greenhouse gas reporting program, including whether a schedule of fees should be established for the electricity suppliers and fuel distributors added by Senate Bill 38. DEQ requested the committee's opinions on the issue and will report issues raised by the committee to the legislature.

Establishing new fees wouldn't increase program revenue to DEQ; however, it would spread the costs of the program over more businesses, which would reduce the fees for existing reporters. While some committee members felt fees should be established for electricity suppliers and fuel distributors to help pay costs of the reporting program, other members did not support creating new fees. Below is a list of issues raised by members.

- While there was support for funding agencies at appropriate levels, members suggested DEQ reevaluate whether costs of the program could be reduced since reporting requirements have been simplified.

- Many of the new reporters account for a small quantity of greenhouse gas emissions and neither have a past relationship with DEQ or access DEQ programs. There were concerns with how the new reporters would benefit from the reporting program.
- There may be constitutional issues assessing fees to electricity suppliers and fuel distributors.
- Some members suggested if there were new fees, the fees should be commensurate with costs for regulatory staff to review materials. It was suggested fee levels be established based on complexity of the reports and include a multiplier to cover the program's additional costs.

Alignment of Oregon's rules with the federal reporting rules

The committee recommended DEQ eliminate duplicative reporting where possible by allowing facilities required to report greenhouse gases to the United States Environmental Protection Agency to submit a copy of that report to DEQ in lieu of the registration and report required by Oregon's greenhouse gas reporting rules. The proposed rules contain the recommendation, but authorize DEQ to require the submission of additional information if the copy of the report submitted to the federal program is not sufficient to determine greenhouse gas emissions. Additional information would likely only be needed in situations where a report to EPA does not adequately delineate emissions according to state boundaries.

DEQ's rules and the federal rules contain exemptions for categorically insignificant activities. As recommended by the committee, the proposed rules require sources who report to EPA and DEQ to follow EPA's rules. Sources who report to DEQ only, and not EPA, would follow DEQ's rules.

DEQ changed the reporting deadline for stationary sources from March 15 to March 31 to align Oregon's rules with the federal rules.

Fiscal Impact Review

The Administrative Procedures Act requires DEQ to perform a fiscal impact study for the proposed rules and involve the advisory committee in fiscal analysis. The committee reviewed and provided comments and recommendations on DEQ's draft Statement of Need and Fiscal and Economic Impact for the proposed rules. Pursuant to the Administrative Procedures Act, DEQ ask the committee the following questions derived from ORS 183.333 and ORS 183.540.

- Do the rules have a fiscal and economic impact?
- If the rules have a fiscal and economic impact, what is the extent of the impact?
- Do the rules have a significant adverse impact on small businesses?
- If there is a significant adverse impact on small businesses, what does committee recommend DEQ do, pursuant to the act, to reduce the impact while still achieving the purpose of the rules?

There was consensus the proposed rules will have a fiscal and economic impact on businesses. The committee felt the extent of the impact is outlined adequately in DEQ's draft Statement of Need and Fiscal and Economic Impact, which DEQ revised based on committee recommendations. The committee concluded the rules have a significant adverse impact on the small businesses DEQ indicated would be directly affected by draft rules. However, the committee felt that despite any possible adverse impact on small business, DEQ minimized costs as much as possible at this time. The committee did not believe there is a need at this time for additional mitigation steps outlined in ORS 183.540.

Appendix A: Oregon Greenhouse Gas Reporting Advisory Committee Meeting Notes, September 23, 2009

DEQ Northwest Region
9:00 a.m. – 4:00 p.m.

Overview: Oregon's greenhouse gas reporting advisory committee convened to provide input on revisions to Oregon's greenhouse gas reporting rules. The committee plans to hold five meetings from September 2009 through January 2010. The following is a summary of the committee's discussion at its first meeting. DEQ responses to questions and comments are shown in *italics*. These are the responses DEQ provided to the committee at the meeting.

Attendance:

Advisory committee members	Member substitutes/additional representation
Mark Reeve, Chair - Reeve Kearns PC	Bill Casey - Portland General Electric
Pam Barrow - Northwest Food Processors Association	Michele Crim - City of Portland Office of Sustainable Development
Kyle Davis - PacifiCorp	John Ledger - Associated Oregon Industries
Angus Duncan - Bonneville Environmental Foundation	Catriona McCracken - Citizens' Utility Board of Oregon
Ed Elliott - Northwest Propane Gas Association	Paul Romain - Oregon Petroleum Association
Lee Fortier - Dry Creek Landfill	Adam Turco - NW Natural
Janet Gillaspie - Oregon Association of Clean Water Agencies (ACWA)	
Don Haagensen - Cable Huston et al./Waste Management	Others in attendance
Brock Howell - Environment Oregon	Peter Cogswell - Bonneville Power Administration
Suzanne Lacampagne - Miller Nash LLP/Associated Oregon Industries	Andy Ginsburg - ODEQ
Brendan McCarthy - Portland General Electric	Uri Papish - ODEQ
Tom O'Connor - Oregon Municipal Electric Utilities Association	Matthew Lee - Lane Regional Air Protection Agency
Lynne Paretchan - Perkins Coie LLP	Vijay Satyal - Oregon Department of Energy
Danelle Romain - Oregon People's Utility District Association; Oregon Petroleum Association	Brandy Albertson - ODEQ
Scott Stewart - Intel Corporation	Andrea Curtis - ODEQ
Kathryn VanNatta - Northwest Pulp and Paper Association	Margaret Oliphant - ODEQ
Kevin Watkins - Oregon Rural Electric Cooperative Association	
Tom Wood - Stoel Rives/Ash Grove Cement	
Tom Zelenka - Schnitzer Steel/Cascade Steel Rolling Mills	

Welcome: Mr. Reeve gave an overview of the agenda (handout) and meeting formalities. Staff, committee members and the public introduced themselves.

Draft charter: Mr. Reeve gave an overview of the draft charter (handout) and explained the purpose, process, roles and expectations of committee members. The committee's first task is to address the first year of fees for sources subject to the existing rules to fund the program as authorized by SB 103 (2009). The committee would then address the substance of the reporting rules to implement SB 38 (2009), which authorized EQC to create reporting requirements for power importers and fuel distributors; future years' fees including possible legislation for fee authority over SB 38 reporters; and alignment of Oregon's rules with the federal rules and WCI. The public comment period during committee meetings is an important opportunity to provide public involvement to the committee.

Discussion highlights:

- The committee may not agree on recommendations. In those cases, DEQ will note the disagreement in its report to EQC.
- The committee should take legislation at face value and not argue policy choices made by the Legislature. A member asked whether the committee would review legislative history for context and raise that to the committee. *Response: Yes, if it applies to the committee's charge.*
- Members must portray draft documents as drafts in regards to communication and media coverage.
- Members asked whether it is within the committee's scope to address aligning Oregon's rules with the federal rules, including cases where the federal rules differ from WCI's essential elements. Members noted that WCI would need to reconcile its essential elements now that federal rules have been adopted. *Response: It's within the committee's scope to address these issues. DEQ needs to streamline its rules to avoid redundant requirements with the federal rule, but does not intend to revise the reporting threshold.*
- The committee requested the following revisions to the draft charter:
  - Fees should cover the costs of efficiently operating the reporting program (section 3.1.d).
  - People who wish to discuss the proposal are encouraged to contact project staff, not committee members (section 4).
  - Now that federal reporting rules have been adopted, reconciling Oregon's rules with the federal rules will be prioritized and distinct from reconciling Oregon's rules with WCI's essential elements.

Timeline: Mr. Reeve reviewed the committee's tentative timeline (handout). For EQC to adopt temporary rules for year one fees in December, the committee must make recommendations on fee options by October 19, 2009, the committee's next meeting. DEQ has internal deadlines to prepare and provide rulemaking materials for EQC in advance of the December EQC meeting. DEQ will remove discussion of WCI essential elements from the October meeting and incorporate discussion of the federal rules into a future meeting.

Discussion highlights:

- A member noted that reporters will be doing their 2010 budgets and the supplemental invoice for the new fees will be a rub. *Response: DEQ notified reporters about the fee proposal and the potential for a supplemental invoice.*
- A member noted there were timing issues with reviewing fiscal impacts in the previous advisory committee. *Response: We expect to be far enough along with components of the rules by January 2010 to review fiscal impacts; however, it's possible that the committee would need to delay the fiscal review.*

- It would be a waste of time for the regulated community to learn the WCI protocols when they will later learn the federal protocols. As a policy choice, we should move to the federal protocols now. A member requested the committee discuss 2009 protocols at the October meeting. *Response: DEQ didn't intend protocols to be a focus of this committee; however, DEQ is open to a discussion about substituting the federal protocols.*

Background information: Mr. Papish gave a presentation (PowerPoint and handout) on the greenhouse gas reporting program and the new reporters added by SB 38 section 2. DEQ originally planned to approve WCI protocols to be consistent with other states; however, it may re-notice with the federal protocols.

Discussion highlights:

- Several members suggested that comparing Oregon's direct emissions (for all things produced in state) to indirect emissions (for all things produced out of state for use in Oregon) would inform policy decisions. A member noted that this looks at consumption-based vs. generation-based inventories and that the role of committee is not to debate decisions made by the Legislature. Another member noted that electricity generation is straightforward and companies already report this data; we'd need to consider costs to industry and the state if we were to talk about other goods and products in an analogous way. *Response: DEQ is working on a consumption based greenhouse gas emissions inventory on goods and waste. The original legislation included importers of power and products, but products were removed.*
- A member suggested that while the largest emitters are mobile sources, the reporting requirements focus on small emitters. Removing out-of state emissions from the picture would show that transportation is a huge contributor of emissions. *Response: We're looking for ways to go upstream to get emissions information from the transportation sector and heating fuels sector. The original advisory committee recommended that Oregon rules not have a threshold, but that the reporting requirements apply to all permitted facilities. This would have cast the net broadly; however, we needed to balance reporting against the practicality of collecting data. While Oregon has authority to require reporting from all sources of greenhouse gas emissions in the state, including mobile sources, this would've been complicated and burdensome.*
- A member requested that Oregon look at emissions upstream, such as wholesalers of propane; going downstream is burdensome and onerous. *Response: One of the charges for the committee is to help determine who to get the data from.*
- A member suggested that the statute gives discretion to EQC. The committee should consider whether EQC should adopt rules at all. *Response: The committee can address this topic; however, statutory language is generally written this way to provide EQC sufficient time to adopt rules.*
- Members discussed duplicative reporting created by the state rule. The federal rule applies to other states and requires reporting from the power importer companies that would also be subject to Oregon's rules. There's concern about who has to compile the data, the implications and transaction costs for these companies, and the value to Oregon. A member asked if fuel suppliers would deduct quantities that they supply to other reporting entities to avoid double reporting. *Response: Emissions from power importers is covered under Oregon's statewide goal and will enable us to evaluate Oregon's carbon footprint and benefit public education programs among other things. There will be some double reporting, which we'll account for when looking at Oregon's overall emissions.*

2009 Legislative Session: Mr. Ginsburg gave a presentation (PowerPoint and handout) on SB 103, which authorized EQC to create fees for reporters. He also reviewed SB 38 section 3, which asks DEQ to evaluate whether fees should be assessed to the SB 38 reporters. Mr. Ginsburg outlined the reporting program staff positions that DEQ requested during the 2009 legislative session and the positions that the legislature approved.

Discussion highlights:

- Members asked whether there would be multiple invoices, resulting in multiple compliance requirements; and about the invoice schedules in other DEQ programs. *Response: With exception to the first year, DEQ would issue the new fees with the air quality invoices already issued to reporters. Other DEQ programs have different invoice schedules. While some fee payers would prefer to receive all invoices at once, others prefer their invoices be spread out over time.*
- A member suggested that we need legal analysis of the Legislature's authority to create fees for SB 38 reporters (e.g. California law suite regarding disproportionate fees). *Response: DEQ doesn't believe California's situation is analogous to Oregon's; however, this is something worth looking into.*
- A member asked whether the federal rules require federal agencies (e.g. Bonneville Power Administration) to report and if there are fees. *Response: Federal agencies are required to report. We don't know if BPA meets the reporting threshold. The federal rule doesn't include fees.*

2009 Legislature Approved Budget: Mrs. Oliphant gave a presentation outlining the greenhouse gas reporting program budget, including expenditures, the legislatively approved budget and fee revenue requirements.

Discussion highlights:

- A member asked whether the increases in expenditures are set or approved by the Legislature. *Response: The Department of Administrative Services determines the state budget cost increases and the actual increases largely depend on union contract negotiations. The increases DEQ presented are middle-ground estimates that avoid over or under estimating expenditures.*
- DEQ has included a 5-6 month ending balance in annual revenue requirements. Members asked whether the Legislature could sweep ending balances. *Response: Sweeps are very rare and typically aimed at larger pools of money. DEQ would evaluate lowering the fees if the program's ending balance got too high.*
- Members asked whether development of the database is included in expenditures, where DEQ would apply contract dollars and what funds DEQ already has for the project. Members noted concern about equity for reporters vs. fee payers, including whether year-one fee payers and contract dollars would subsidize the program for future reporters. A member suggested that the amount of revenue DEQ would collect from year-one fee payers is a policy question. *Response: DEQ has included contract dollars of $125,000 per year to help fund database work. While we expect to use all of the contract dollars on the database, any amount left over might go toward protocol development and into the program's budget, which could postpone future fee increases. DEQ received a grant from EPA and these funds were used to start the project. DEQ will provide a breakdown of the contract dollars at the October meeting. EQC is authorized to create fees only for the sources subject to the existing rules. One of the committee's tasks is to decide how to handle inequities, including whether there should be legislation to authorize fees for SB 38 reporters, which would spread the cost of the program over more reporters.*

Options for year one fee schedule: Ms. Curtis gave a presentation (PowerPoint) that outlined several fee options for 2010 and criteria that could inform committee recommendations. The example fee options included a flat fee for all reporters and tiered fees by emissions, permit type and both. Criteria included whether the new fees would result in incremental cost increases relative to reporters' current permit fees; whether the fees would be proportional to quantity of emissions; whether the fees would be administratively simple for DEQ to assess; and whether the fees would result in stabile revenue for DEQ and stable costs for individual fee payers. DEQ encouraged members to suggest additional options and criteria.

Discussion highlights:

- Members noted that a good program would overlap the criteria and principles important to DEQ and reporters. The regulated community considers its own costs and time spent reporting; it may want minimum subsidization, minimum documentation and no duplication with EPA documents. Members discussed whether the fees should be correlated with complexity of reporting and the staff time required to process reports: some facilities with large emissions have relatively simple reports that would require little staff time, while some facilities with lower emissions have very complex reports that would require more staff time. Some members suggested that we avoid a complex fee structure that would be costly to administer and require a lot of staff time. A member noted that the reporting revenue isn't very large. *Response: One of the tasks for the committee is to decide on optimal solutions. Administrative simplicity is a benefit to both DEQ and reporters because a complex approach would require more staff resources. While assessing fees on complexity of reporting could help prevent companies from subsidizing each other, it would not be administratively simple. We need to be careful of putting too large of a fee on any single source; or putting too large of a portion of the fees on small sources.*
- Members noted that Title V fees are based on emission quantities while ACDP fees, which are much lower, and based on complexity of permit. ACDP sources tend to be much smaller than Title V sources. Whether a source has a Title V or ACDP permit is not well correlated with quantities of greenhouse gas emissions. A member noted that, unlike the Title V program, the ACDP program is not fully funded by fee revenue and that ACDP fees would be higher if it were. *Response: The ACDP program relies less on general funds than when it originated. It was originally 60% fee funded, but is now 80-95% fee funded.*
- Members questioned whether Oregon would have a cost savings in getting data from EPA; Oregon's timeframe for getting this data since the lag in timing of data transfer will not create significant health risks; and the need for DEQ to spend staff resources on quality assurance / quality control of the data when EPA's QAQC may be adequate. *Response: DEQ will need to perform QAQC to verify emissions data; this assumption is based on encounters with similar programs and EPA's use of electronic verification. While DEQ's collection of data from EPA may not be time consuming, its analysis and verification of the data will be time consuming; the program still requires two FTE. Staff levels may be re-evaluated in the future.*
- A member asked whether sources subject to federal reporting would be exempt from the fee. *Response: That's not DEQ's intent. These larger sources are responsible for the majority of stationary emissions in Oregon.*
- Based on committee discussion, DEQ will prepare the following options for the committee to review: 1. The four-tiered emission fee scenario discussed during the legislative session. 2. Charge sources a percent of their current fees. 3. Charge sources a percent of their current fees on a sliding scale, where smaller sources would pay a larger percent and larger sources would pay a smaller percent.

Adjourn

Appendix B: Oregon Greenhouse Gas Reporting Advisory Committee Meeting Notes, October 19, 2009

DEQ Headquarters
9:00 a.m. – 4:00 p.m.

Overview

Oregon’s greenhouse gas reporting advisory committee convened to provide input on revisions to Oregon’s greenhouse gas reporting rules. The committee plans to hold meetings from September 2009 through early 2010. The following is a summary of the committee’s discussion at its second meeting. DEQ responses to questions and comments are shown in *italics*. These are the responses DEQ provided to the committee at the meeting.

Attendance

Advisory committee members	Member substitutes and additional representation
Mark Reeve, Chair - Reeve Kearns PC	Julie Flint - Oregon People’s Utility District Association; Oregon Petroleum Association
Michael Armstrong - City of Portland Bureau of Planning and Sustainability	Steve Higgs - Perkins Coie LLP
Pam Barrow - Northwest Food Processors Assoc.	Marv Lewellen - Associated Oregon Industries
Shanna Brownstein - The Climate Trust/The Offset Quality Initiative	Catriona McCracken - Citizens' Utility Board of Oregon
Kyle Davis - PacifiCorp	
Angus Duncan - Bonneville Environmental Foundation	Guest presenters:
Jim Edelson - Oregon Interfaith Global Warming Campaign	Neil Caudill – Washington Department of Ecology
Ed Elliott - Northwest Propane Gas Association	Peter Cogswell – Bonneville Power Admin.
Lee Fortier - Dry Creek Landfill	Ken Corum – Northwest Power and Conservation Council
Janet Gillaspie - Oregon Association of Clean Water Agencies	Rick Wallace – Oregon Department of Energy
Don Haagensen - Cable Huston et al./Waste Management	
Brock Howell - Environment Oregon	Others in attendance
Bob Jenks - Citizens' Utility Board of Oregon	Brandy Albertson - ODEQ
Suzanne Lacampagne - Miller Nash LLP/Associated Oregon Industries	Andrea Curtis - ODEQ
Brendan McCarthy - Portland General Electric	Bill Drumheller - ODOE
Holly Meyer - NW Natural	Maury Galbraith – Public Utility Commission
Tom O'Connor - Oregon Municipal Electric Utilities Association	Merlyn Hough - Lane Regional Air Protection Agency
Scott Stewart - Intel Corporation	Margaret Oliphant - ODEQ
Kathryn VanNatta - Northwest Pulp and Paper Association	Uri Papish – ODEQ
Tom Wood - Stoel Rives/Ash Grove Cement	
Tom Zelenka - Schnitzer Steel/Cascade Steel Rolling Mills	

Welcome

Mr. Reeve gave an overview of the agenda (handout). Staff and committee members introduced themselves.

Approval of draft charter

Mr. Reeve requested comments and approval on the draft charter, which DEQ revised based on committee input at the September meeting. The committee approved the charter after confirming that it would address alignment of Oregon's reporting requirements with WCI only for the purposes of imported power. The WCI model rule contains reporting requirements for imported power while the federal rule does not.

Approval of draft meeting notes

Mr. Reeve requested comments and approval on the draft notes from the committee's September meeting. The committee approved the notes with a recommendation for the notes to explain that DEQ's responses are the responses DEQ provided to committee members at the meeting.

Recommendation on the structure for year one fees

Ms. Curtis gave a presentation (handout and PowerPoint) on fee options. The purpose of this agenda item was for the committee to make recommendations on the structure for year one fees.

DEQ estimates that 143 businesses are subject to the existing greenhouse gas reporting rules. These businesses hold state Air Contaminant Discharge Permits or federal Title V operating permits. Because DEQ estimated source emissions using previously reported fuel, the actual number of reporters may be larger or smaller.

Of the four fee options presented, the frameworks for options one, two and three were requested by the committee at its September meeting; DEQ developed option four as a hybrid of options one through three.

Options:

1. Charge reporters a percent of their air quality permit fees with a cap: 15% with a cap of $9,000
2. Charge reporters on a sliding scale where small sources pay a larger percent of their air quality permit fees than large sources: 15% (smaller sources) to 12% to 9% to 6% (larger sources) with a cap of $20,000. This option has a fairness problem for sources near the threshold of each tier.
3. The four-tiered emission fee scenario illustrated during the 2009 legislative session. This would be the most complex option for DEQ to implement and could result in large fee increases (e.g. 400%) relative to sources' current permit fees.
4. Charge smaller sources based on permit type (15%) and charge larger sources on a three-tiered emission fee scenario. This option limits the percent increase in permit fees paid by any source to 109%.

The committee appeared to reach a general consensus around option one. Before making this recommendation, the committee heard the two subsequent agenda items (additional budget information and public comment) and discussed requests that DEQ received outside of the meeting. DEQ received requests from interested parties that the committee delay its recommendations on year one fees. This would provide additional time for the committee and other stakeholders to evaluate the options and help ensure an informed decision is made. In response to the requests, DEQ emphasized the importance of public input and suggested that it accept the committee recommendations as tentative and asked that the committee finalize recommendations on fees at the next meeting. While some members felt a delay was unnecessary, others supported this action and requested that DEQ provide the draft rule language before the committee's next meeting.

Discussion points:

- Some members thought that the fees for year one should parallel how DEQ currently assesses permit fees to reduce the surpise of the new fee on permitted reporters. The framework for future years could be structured differently since unpermitted facilities will come into the program. There was concern that changing the structure after year one would create administrative complexity and confusion for the regulated community.
- Some members like the idea of an emissions based fee structure, especially long term, and in some ways preferred option four to option three to avoid significant increases in sources' current fees. There was concern that some sources (e.g. landfills) would incur large emission fees because greenhouse gas emissions quantities are assessed on CO_2 equivalent. A member stated that the legislative intent was for a tiered emissions based fee structure so that all reporters share the costs of program, as opposed to only permitted facilities paying for program. A member noted a disparity in establishing the new fee based on a percent of current permit fees because existing ACDP fees don't pay for the entire cost of ACDP program, whereas Title V fees pay for the entire cost of the Title V program. Members recognized that it would be complicated for DEQ to implement a fee structure based on emissions in year one since DEQ does not yet have good emissions data.
- Some members thought that the fee should be correlated with DEQ's cost to process the emissions reports from reporters. Others felt that the fee is intended to cover program costs, which are not correlated with emissions or complexity of the emissions report.
- A member noted that efforts to achieve equity increase complexity and suggested that the amount of the fee is not a serious price signal for greenhouse gas emissions.
- Several members felt that no source should experience a new fee of greater than 100 percent of their current permit fees.
- Members preferred not putting too much revenue on small sources, especially when the numbers of small sources is undetermined. One member suggested that DEQ not collect fees from facilities that emit between 2,500 and 25,000 tons of greenhouse gas emissions because these sources account for a small percent of the total emissions.
- Many members supported option one for its simplicity, including the representatives of year one fee payers. Members asked that the fee sunset after year one and that the cap be established by rule.
- Several members who do not represent year one fee payers suggested that the opinions of fee payer representatives carry the most weight in the committee's recommendation on year one fees.
- Some members suggested that the fee structure reconcile the subsidization of the program by year one fee payers.
- Some members asked that program costs be reevaluated; that the ending balance is too high of a burden on year one fee payers and that it's questionable whether the program is the appropriate size. The committee Chair noted that the committee's task is to make recommendations on a fee structure that covers program costs, regardless of whether program costs were adjusted.

DEQ response:

- *DEQ is sensitive to a small business having a significant fees increase; but agrees that an emission-based structure is desirable because it could apply to the non-permitted facilities that will be subject to the program. DEQ believes option four addresses both of these issues and that this option seems equitable in that it prevents a Title V source that has low greenhouse gas emissions but which pays high Title V fees from having high greenhouse gas reporting fees. It takes a lot of effort for DEQ to* *bill on emissions in DEQ's Title V program, but this approach could be streamlined in the greenhouse gas reporting program.*

- *DEQ agreed that option one would be the most straight forward and easiest option to implement.*
- *While we could establish a different fee structure for future years' fees, ideally, the committee would determine a structure for year one that could be used long term.*
- *DEQ's largest costs are not in acquiring the data, but in what we do with the data (e.g. analysis, quality assurance, costs of rulemaking and seeking public input).*
- *DEQ recommended that the committee discuss options to reconcile subsidization when it addresses the structure for future years' fees. Unlike the private sector, state agencies can't borrow money to develop the reporting program and can't obligate money in a given biennium to a future biennium.*

Additional information on 2009 Legislature approved budget

Mrs. Oliphant gave a presentation (PowerPoint) on contract dollars budgeted for the greenhouse gas reporting program. This information was requested by the committee to supplement budget information presented at the previous meeting. DEQ will use contract dollars to complete its reporting database, prepare for information exchange with EPA and modify its permit database for tracking greenhouse gas reporters.

Discussion points:

- While some members felt that DEQ's budget for the database was appropriate, others suggested that DEQ re-evaluate the program budget and the cost and need for the database, if not now, then in the next biennium. A member advocated that DEQ develop a simpler program, suggesting that the budget is too large to collect information from a relatively small number of reporters (about 140 in 2010), DEQ doesn't yet know the quality of information it will receive from EPA and doesn't know if its system will serve Oregon's future policy needs. Since the large sources account for the majority of emissions from the year-one source universe and this information will come from EPA, some members are concerned about the appropriate infrastructure for obtaining information from smaller sources for a small percentage of emissions.
- A member suggested that, for simplicity, larger sources submit information in xml format, which DEQ would load directly to its database; or that DEQ consider using a host website for information exchange with reporters.
- The committee Chair noted that DEQ does not have new information that would significantly change the budget. The purpose of the committee is to look at fee structures to cover the existing program, not to concur with the scope of DEQ's work on the reporting database.

DEQ response: DEQ needs its system to collect the data needed to inform statewide policy decisions (e.g. statewide complimentary measures require that we know emissions from specific sectors). While DEQ would have developed an input program for larger sources (e.g. by spreadsheet), it anticipated that EPA would have a federal rule and planned for a conversion to exchange information from EPA. Adoption of the federal rule doesn't impact the cost of the database. An off-the-shelf database that would meet DEQ's needs doesn't exist and DEQ is using existing framework as much as possible to complete the database and has already developed data entry screens for large sources. Although DEQ will use the data exchange network for information exchange with EPA, DEQ needs to incorporate data transfer into the state permitting database.

Public Comment

Commenter Kate McCutchen (Blue Heron Paper Company) stated that the company has already done its budget for 2010 and has national and international competitors that aren't looking at a reporting fee in 2010. She is concerned about the unfairness of Oregon assessing the fee to only permitted businesses and that first year reporters would be paying DEQ's costs to design and troubleshoot the reporting system for future reporters. She recommends that Oregon assess fees based on portion of greenhouse gas emissions. If other states or users use Oregon's system to develop their own system, Oregon should seek compensation and then provide a rebate to first year payees. If the reporting program is a value to the state, DEQ should receive general funds to help pay for the program.

Sallie Schullinger-Krause (Oregon Environmental Council) wants to ensure Oregon has a firm infrastructure for greenhouse gas emissions. A large portion of greenhouse gas work is under DEQ's responsibility; the state needs to provide the information necessary for DEQ to meet those responsibilities. We need to ensure there's no confusion between EPA, state and potentially regional systems in terms of regulated entities. She suggests that maintaining staff positions in the program will require some general funding; it's important that staff be funded and that the number of staff positions increase in future years.

Overview of Washington State's Reporting Rules

Mr. Caudill gave a presentation (PowerPoint) on Washington's greenhouse gas reporting rule. He highlighted differences between Washington's rule and the federal rule and committee members noted differences between Washington's rule and Oregon's rule. Washington is looking at aligning its rule with the federal rule during the state's next legislation session. Washington reporters will continue to be subject to the existing state rule unless state legislation authorizes or requires amendments to the program. A committee member noted that Washington's alignment with the federal rule would include going from entity wide to facility wide reporting; requiring reporting of direct emissions only; and eliminating fleet reporting.

Washington has not yet established program funding, but has authority to create fees for reporters at levels necessary to cover anticipated program costs. Washington has not yet determined program costs, but intends to have three or four staff positions in the program and will develop a reporting database. Washington's tentative fee structure includes an annual base fee assessed to all reporters; a second additional annual fee for reporters that emit between 10,000 and 25,000 tons per year; and a third additional annual fee for reporters that emit 25,000 tons or more. Fees have not been established yet, but would likely range from about $100 and $2,500 annually for the 600 to 700 sources subject to the state rule.

Electricity Companies and Power Imports

Mr. Corum gave a presentation (PowerPoint) on electricity companies and power imports. The purpose of this presentation was to inform the committee and enhance future discussions on creating reporting requirements for imported power. Although identifying in-state power generation for Oregon load is straightforward, Mr. Corum highlighted several issues that complicate identifying emissions associated with power generation in the transmission distribution system:

- Although Oregon may have contracts for power with out-of-state suppliers, suppliers aren't always able to supply the quantities they intended to serve.
- System sales do not identify electricity generators. In addition, marketers sign contracts with utilities and suppliers to provide electricity to Oregon for a certain period (e.g. six months out); at the time of the contract, the marketer doesn't know where that energy will come from because marketing deals might change who the supplier is before the energy is delivered. While we could look at average emissions of all the electricity produced in a system or the Western interconnection, generation sources vary over the course of a day and across seasons. We could look at the service of marginal generators operating at a particular time of day or year or require that marketers declare where the energy they supply comes from.

- Some electricity is generated in Oregon for use outside of Oregon. Although this creates emissions in Oregon, Oregon load did not make those emissions necessary.
- The owner of electricity can be transferred. An entity may supply power to BPA and receive power from BPA at another time.
- Renewable energy credits may be separated from the power they originated from and be sold or purchased separately. We can't track these carbon signatures through the system.
- We may be able to make reasonable estimates on emissions by looking at power consumption or sales downstream; however, we'd need to account for losses during transmission and distribution.

Discussion points:

- ➢ A member suggested that in power exchange, the original owner maintains the carbon responsibility. Several members suggested that we attach carbon counts to electricity at generation. This would reduce complications associated with leakage and with power being sold multiple times before it is consumed.
- ➢ A member noted the difficulty in identifying the key players who bring power into Oregon because the electricity grid is not clear; it's difficult to identify spot-market transactions.
- ➢ A committee member suggested that renewable energy credits will not be an issue when a cap and trade system is implemented; however, another member suggested that the voluntary market could still consume the credits.
- ➢ A member suggested that Oregon design reporting requirements to achieve its key purposes: in anticipation of cap and trade and to support policy decisions. While reporting itself is not controversial, the structure of reporting and how this information will be used could be important in a developing cap and trade program. A member suggested that, while a national cap and trade program would not discount Oregon's interest in carbon counts, it would diminish the degree of precision needed in Oregon's count because state counts would not be economically significant. Complications for detail arise only when dealing with a state or regional based system.
- ➢ A member noted that system power is a small source for Oregon compared to other power.
- ➢ A member suggested that there are already straightforward protocols for identifying power, such as The Climate Registry and California Climate Action Registry. The political question is how to characterize emissions to unspecified power or null power.

Bonneville Power Administration and Consumer Owned Utilities
Mr. Cogswell gave a presentation (PowerPoint) on Bonneville Power Administration and its customers. The purpose of this presentation was to inform the committee and enhance future discussions on creating reporting requirements for imported power in regards to third party reporting by BPA for consumer owned utilities. BPA's Oregon customers include consumer owned utilities, some investor owned utilities and out-of-state customers. Consumer owned utilities purchase power under two contracts: 1. Slice contracts allow a customer to purchase a percent of electricity from BPA's system. 2. Load following customers obtain 100 percent of their power from BPA.

Third party reporting (authorized by Senate Bill 38) will be more efficient for the state and more cost effective for customers compared to customer reporting; customers have no control on BPA's system and do not have access to the system profile. Although BPA wants to help its customers with reporting, several issues complicate BPA's ability to identify emissions:

- Since BPA customers with slice contracts also purchase power from other sources, BPA doesn't have full information for these customers.
- BPA is moving to a tiered rates system that will allow consumer owned utilities to either put their load on BPA or elsewhere. As a result, BPA will no longer have full information for these customers.

- Five to ten percent of BPA's annual power is derived from unspecified market purchases. While BPA generates over ninety percent of the electricity it distributes, it must make market purchases to cover short term energy deficits.
- BPA has questions about biomass emissions that percolate from reservoirs.

Discussion points:

- ➢ Committee members noted that while the majority of BPA's customers are load following customers, the largest loads are provided to slice customers.
- ➢ A member suggested that an expert panel for The Climate Registry is addressing whether to develop protocols for reservoir biomass emissions.

Fuel Supply and Distribution in Oregon

Mr. Wallace gave a presentation (PowerPoint) on fuel distribution and supply in Oregon. The purpose of this presentation was to inform the committee and enhance future discussions on creating reporting requirements for fuel distribution. Mr. Wallace highlighted several gaps in the fuel information collected and tracked by ODOT (through gasoline tax reporting) and by the U.S. Department of Energy (through mandatory Energy Information Administration questionnaires). For example, fuels tax reporting does not cover heating oil or industrial uses; and diesel is tracked differently from gasoline (at the pump and through a weight-mile tax system). There may be complications in tracking fuels at point of entry (pipelines, trucks and barges) because the supplier does not always know whether that fuel will be consumed in Oregon or how; for example, during transition between fuel types, pipelines sell fuel mixtures to other markets (trains).

Adjourn

Appendix C: Oregon Greenhouse Gas Reporting Advisory Committee Meeting Notes, November 16, 2009

DEQ Northwest Region
9:00 a.m. – 3:00 p.m.

Overview

Oregon's greenhouse gas reporting advisory committee convened to provide input on revisions to Oregon's greenhouse gas reporting rules. The committee plans to hold meetings from September 2009 through early 2010. The following is a summary of the committee's third meeting. Responses to questions and comments are shown in *italics*. These are the responses DEQ provided to the committee at the meeting.

Attendance

Advisory committee members

Mark Reeve, Chair - Reeve Kearns PC	Scott Stewart - Intel Corporation
Michael Armstrong - City of Portland Bureau of Planning and Sustainability	Kathryn VanNatta - Northwest Pulp and Paper Association
Pam Barrow - Northwest Food Processors Association	Tom Wood - Stoel Rives/Ash Grove Cement
Shanna Brownstein - The Climate Trust/The Offset Quality Initiative	Tom Zelenka - Schnitzer Steel/Cascade Steel Rolling Mills
Kyle Davis - PacifiCorp	Member substitutes and additional representation
Angus Duncan - Bonneville Environmental Foundation	Paul Romain - Oregon Petroleum Association
Jim Edelson - Oregon Interfaith Global Warming Campaign	John Ledger - Associated Oregon Industries
Ed Elliott - Northwest Propane Gas Association	Guest presenters
Lee Fortier - Dry Creek Landfill	Maureen Bock - Oregon Department of Transportation
Janet Gillaspie - Oregon Association of Clean Water Agencies	Bill Drumheller - Oregon Department of Energy
Don Haagensen - Cable Huston et al./Waste Management	Randy Friedman - NW Natural
Lynne Paretchin - Perkins Coie LLP	Baron Glassgow - Northwest Propane Gas Association
Sandy Flicker - Oregon Rural Electric Cooperative Association	Others in attendance
Danelle Romain - Oregon People's Utility District Association; Oregon Petroleum Association	Andrea Curtis - DEQ
Brock Howell - Environment Oregon	Diana Enright - Oregon Department of Energy
Suzanne Lacampagne - Miller Nash LLP/Associated Oregon Industries	Andy Ginsburg - DEQ
Holly Meyer - NW Natural	Merlyn Hough - Lane Regional Air Protection Agency
Tom O'Connor - Oregon Municipal Electric Utilities Association	Uri Papish - DEQ

Welcome

Mr. Reeve gave an overview of the agenda (handout) and changes to the project schedule. Schedule changes are described in the section **Next Steps** at the end of this document.

Approval of draft meeting notes

Mr. Reeve requested approval of the draft notes from the October meeting. The committee approved the notes with the following revision: The notes state that BPA has concerns about biomass emissions percolating from reservoirs. A member felt this language was too strong. DEQ agreed to revise the notes to show that BPA has questions about these emissions.

Western Climate Initiative reporting requirements for imported power and existing reporting protocols

Mr. Drumheller gave a presentation on elements of an imported power reporting rule (PowerPoint). The purpose of this presentation was to inform the committee and enhance future discussion on potential reporting requirements for power importers.

Power importers include utilities, electricity service suppliers, power marketers, power brokers and federal entities. Utilities may be investor or consumer owned and include Oregon and multijurisdictional entities. Electricity service suppliers sell power directly to industrial customers. Power marketers are firms who own the power they sell, while brokers are not owners but perform contractual sales. Power sold by Bonneville Power Administration for Oregon resale is considered imported because Oregon doesn't have authority to require reporting from BPA. Senate Bill 38 provides for BPA to voluntarily report on behalf of COUs; this would reduce the reporting burden on these utilities.

DEQ could incorporate elements of existing rules and protocols where they are consistent with Senate Bill 38 and the purpose of the reporting program. Reporting requirements would apply to emissions associated with stationary generation, imported power and transmission line and equipment losses. WCI is harmonizing its rule with EPA's mandatory reporting rule. EPA has protocols for voluntary reporting of sulfur hexafluoride (SF_6) emissions and may address SF_6 protocols in mandatory reporting. EPA doesn't have protocols for imported power. Imported power may be obtained from specified and unspecified sources. Determining emissions from unspecified sources is complicated because this power is purchased off the market.

Discussion highlights

- Some members felt that WCI's rules are too detailed and complex. For example, they include NERC tags and transaction tracking. Members felt it would be better to estimate emissions using default emissions factors. To unwind power transactions would be complicated because one power kilowatt can be traded hundreds of times from where it's generated to where it serves. A member suggested we could use cost allocation to calculate emissions since Oregon's share of unspecified power is equivalent to retail sales.
- There was discussion on the limitations of voluntary protocols. For example, California's Climate Action Registry doesn't apply to power marketers or brokers. It focuses on entity wide reporting, whereas mandatory rules are point in place, may have more accuracy and create greater accountability. A member noted that the amount of power reported as unspecified has increased significantly because companies will not take on the responsibility to affirm where power comes from.
- A member suggested that California is addressing SF_6 emissions for cap and trade purposes and noted that Oregon hasn't established cap and trade.

- A member suggested that, if Oregon uses EPA protocols, we should question how state level action is specific to Oregon.

Fuel information reported to the Oregon Department of Transportation and data gaps
Ms. Bock gave a presentation on gas tax reporting (PowerPoint and handouts). The purpose of this presentation was to inform the committee and enhance future discussion on potential reporting requirements for fuel distributors.

Ms. Bock described the information ODOT collects and identified data gaps. ODOT requires Oregon’s 2,400 licensed fuel stations to report fuel sales. Gas tax reporting captures about 99% of taxable gas distributed in Oregon. ODOT captures taxable fuel quantities electronically; most of the data reported to ODOT remains on paper only, such as fuel exports, imports, inter-state transfers, quantities used by the armed forces and losses and gains. ODOT is willing to share information with DEQ; however, Ms. Bock noted that it would take a great deal of time to get information to DEQ from ODOT’s paper reports. ODOT doesn’t track deductions or tax-exempt sales such as heating oil and diesel fuel. The purpose of the gas tax system is to fund ODOT programs, not to evaluate fuel distribution.

<u>Discussion highlights</u>

- Some members questioned the benefits compared to costs of chasing a high level of detail (the final percent of emissions) from transportation fuels, as well as from other greenhouse gas reporters. Some members noted that transportation fuels are a huge part of the state’s greenhouse gas inventory. This creates questions of why we’re generating money to fund the program from stationary sources, which account for a smaller part of emissions, and whether we should be requiring a high level of detail from stationary sources if we do not require a high level of detail on transportation fuels. *DEQ staff response: DEQ established a reporting threshold at 2,500 tons and exemptions for insignificant activities because we chose not to chase the final percent of emissions from stationary sources. There could be a threshold for fuel reporting as well; however, we need to ensure that we capture the bulk of fuels. The original advisory committee wanted to cast the net widely to get a complete picture of emissions, rather than look only at the largest emitters. If we were to collect information from only larger entities, future regulation might address only larger entities.*
- Several members felt that the information needed by DEQ is already available (e.g. in reports to ODOT or other entities); the reporting burden could be minimized by modifying existing reports in a way that would provide DEQ the information it needs. Members asked that we identify the purpose of collecting fuel information and the type of information needed before we design a system to collect it and before looking at what information is available. The Chair noted that Senate Bill 38 provides for DEQ to use concurrent reporting to the extent consistent with purpose of rules and that DEQ is looking at boundaries set by the bill, which includes fossil fuel that is sold, imported or distributed for use in the state. *DEQ staff response: DEQ is interested in looking at how we could utilize existing reporting and fill in data gaps. If the paper reports to ODOT satisfy DEQ’s information needs, we could potentially require companies to submit a duplicate report to DEQ. Oregon’s Low Carbon Fuel Standard, which is concurrent with this committee, will require fuel reporting. If possible, DEQ would like to align the greenhouse gas reporting requirements with the Low Carbon Fuel Standard reporting requirements so that similar entities are reporting.*
- Members discussed where to set the reporting requirements in the fuel distribution hierarchy. Several members felt we should set the reporting requirements at the highest level efficiently possible that produces reliable data. A member noted that the purpose of the reporting program is to inform future policy decisions; although broad reporting could be helpful, we should set the reporting requirements at the lowest level efficiently possible so that if entities are regulated in the future, we have

established a system that works and that is fair to the regulated community. *DEQ staff response: We need to balance efficiency with compliance likelihood. It'd be useful to have information at a lower level from a policy standpoint; however, it may be more practical to collect at higher level to achieve the greatest efficiency and compliance.*

- A member felt that the weight-mile tax system is the most accurate system for tracking diesel fuels. Also, that a vehicle-mile based system would be the most accurate way to evaluate consumption of other transportation fuels. Ms. Bock explained that ODOT's pilot study showed it would take about ten years for a vehicle-mile tax system to work as ODOT's primary source of revenue. ODOT would need to continue the existing gas tax system for some time.
- A member noted that to determine fuel consumption based on sales, we must assume that most fuel purchased is used in the state.

Public Comment

Kate McCutchen (Blue Heron Paper Company) was concerned that the amount of the fee had been decoupled from the fee structure; and that the fee structure ignores economic impacts on various groups. Committee members favored option one, which would create fees of $9,000 for some reporters. Since the 2009 reporting year hasn't been billed, the total fees for some reporters in 2010 would be $18,000. Washington is considering annual fees of $2,600. Blue Heron Paper Company already reports information to DEQ under the facility's permit and would add only three pieces of information to show facility wide and unit specific CO2 emissions. The company competes with mills in Washington. Ms. McCutchen felt this isn't fair and asked that this be considered in determining the fee option and amounts. Greenhouse gas reporting is a statewide tool and its value is not limited to first year reporters. She strongly objects to first year reporters paying the costs to design and implement the entire reporting program.

Mike Riley (Wah Chang) reiterated Ms. McCutchen's comments. Greenhouse gas reporting will be even simpler for Wah Chang because it already reports natural gas combustion to DEQ through the facility's permit. Wah Chang is facing a fee of $8,000. Mr. Riley asked that the fee be minimized, especially considering current economic conditions. Wah Chang is trying to recover from layoffs. Mr. Riley noted that the industries who bear the burden of reporting are small emitters relative to total statewide emissions and asked that the fees be shared in the future.

Kathryn VanNatta (Northwest Pulp and Paper Association) noted the recent closure of an Oregon paper mill. This decreased Oregon's greenhouse gas footprint and eliminated 270 jobs in a county that already had a 16.7% unemployment rate. Paper mills would pay $18,000 in 2010 to report three numbers to DEQ. NWPPA opposed new fees in the legislative session and this is not a new position. NWPPA worked to reduce FTE positions in the program because it knew the industry would be paying a large share of program costs. Paper mills are large emitters, large users of biomass which is a carbon neutral fuel, and large co-generators. They create jobs, support the tax base and are the type of facility that you want to work in the state.

DEQ received a written comment from Kathryn Fry (SierraPine). DEQ provided a copy of the comment to committee members. Ms. Fry described differences between the federal and state reporting rules such as the reporting thresholds and DEQ's decision to count biomass, a carbon neutral fuel, toward the threshold. Ms. Fry noted the downturn in the wood products industry, which includes SierraPine. SierraPine opposes the amount of the fee in option one, which would cost SierraPine $9,000 per facility.

Fee Recommendations

Ms. Curtis provided an overview of DEQ's draft rules for year one fees (handout). DEQ drafted the rules based on the committee's tentative recommendation on fees at the previous meeting. The committee

postponed making final recommendations until the November meeting to provide the public and stakeholders additional time to discuss the proposal and submit public comment.
The draft rules would establish one year of fees for greenhouse gas reporters that hold Title V or Air Contaminant Discharge Permits. The greenhouse gas fee for each Title V or ACDP source would equal fifteen percent of the source's annual permit fee. The greenhouse gas fee would be capped at $9,000 per source.

Discussion highlights

- Members discussed DEQ's budget. While some members felt that DEQ's budget for the greenhouse gas program was appropriate, others were concerned with the amount, especially in the first year. Some members were concerned about the cost of DEQ's data system, the need for contract dollars and the amount of the ending balance factored into the budget. *DEQ staff response: DEQ's goal is to establish fees in a way that allocates costs in the most equitable manner possible and minimizes the burden on fee payers. DEQ is asking the committee to help adjust the schedule with consideration of comments received. As discussed at previous meetings, the 2009 Legislature established the program budget after extensive discussion. DEQ reduced the number of positions proposed for the program from 5 FTE to 2 FTE in response to economic conditions. The ending balance is a necessary component of DEQ's budget to fund the program beyond the end of the fiscal year in July.* The Chair noted that the charge of the committee is to provide recommendations to the EQC on fee structure, rather than act as an oversight body on the program budget.
- Members requested that DEQ collect money from other states if it shares its reporting system with other states.
- Members were concerned about the amount of the fee at the cap. A member felt that the legislative intent was for DEQ to implement a four or five tiered fee schedule so that large Title V facilities wouldn't pay large fees. Calculating emissions from these facilities won't require much work because they already report most of the data to DEQ. Members were concerned that the regulated community is hurting economically and that Oregon businesses have global competition. *DEQ staff response: Most of the comments DEQ received about the fees showed concern for the amount of the fee at the cap. After preparing the draft rule, DEQ determined that a greater number of sources would likely be subject to the fees than DEQ originally anticipated. Because there are a greater number of sources over which to distribute program costs, we need to revise the fee structure in the draft rules. Based on committee recommendations, we will either: reduce the percent charge on sources' annual permit fees, lower the cap or both.*
- Some members were concerned that, since the number of reporters changed during DEQ's analysis of the source universe, the number of reporters may change in the future. The fee structure appropriate today may not be appropriate for future years' fees. *DEQ staff response: The number of reporters increased due to the way DEQ counted sources. DEQ reviewed source emissions for 2005 and 2008. Additional sources met the reporting threshold in 2008 because DEQ counted biogenic emissions and because some small sources who were near the threshold in 2005 met the threshold in 2008.*
- Members would like to see a credit or rebate to year-one fee payers if additional players are subject to reporting in the future. Some members asked that DEQ include this in the rule language. The Chair noted that it would be complicated to put a credit or rebate in rule and could create implementation issues. The temporary rulemaking will expire and the committee could address this in the rulemaking for future years' fees. It would be practical for DEQ to include the committee's concerns in the EQC Staff Report for the proposed rulemaking. *DEQ staff response: DEQ agreed that the committee could address inequities when it considers the fees for future years and that the*

committee's concern could be included in EQC Staff Report for the current rulemaking. EQC could create fees for fuel distributors and power importers in future rulemaking if EQC establishes reporting requirements and has authority to establish fees for these emission categories. EQC currently has authority to establish fees for facilities subject to the existing rules. Even if the Legislature expands EQC's fee authority, the Legislature could require that the fees be assessed in a specific way.

- Some members felt that regulation of businesses could justify a fee requirement, but reporting requirements do not.
- Some members recommended that DEQ soften the rule language in Division 215-0040, which requires reporters to use Department-approved reporting protocols. DEQ is using EPA reporting protocols instead of WCI protocols; however, EPA protocols don't work for some sources. Sources aren't sure where they have discretion and don't understand that the rule authorizes DEQ to authorize deviations from EPA protocols. A member suggested that the rule require reporters to work with EPA protocols to the extent reasonable and practical and that sources certify that the emissions report is accurate to the extent dictated by the protocol. *DEQ staff response: DEQ will consider the member's suggestion to revise the rule language. However, DEQ noted that the existing rule gives DEQ discretion and authority to approve deviations from EPA protocols to meet sources' needs.*

Committee recommendation for year one fees

There was consensus for the fee structure in the draft rule proposal. Members felt that charging fees based on a percentage of a source's current permit fee with a cap is the best approach for the program's first year. Members asked that DEQ reduce the cap to the maximum extent possible to reduce the impact of the fees on larger sources. The committee requested that the fee structure apply to only the first year of the program and not set a precedent for the structure of future years' fees. If additional reporters are subject to greenhouse gas reporting fees in future years, the committee feels that fees should be readjusted so that year one fee payers are not unfairly penalized with covering the upfront costs of the reporting program. DEQ will include committee's concerns in its staff report.

Future years' fees

The committee briefly discussed future years' fees. If the committee had reached consensus to recommend fees for Senate Bill 38 reporters early on in the advisory process, DEQ may have brought legislation for fee authority to the special session in February 2010. Given the status of this discussion within the committee, the earliest DEQ could introduce legislation will be the 2011 session. DEQ's rulemaking in 2010 will likely require Senate Bill 38 reporters to report 2010 emissions in 2011, and establish fees for reporters subject to the existing rules, including landfills and wastewater treatment plants, but not Senate Bill 38 reporters. A member noted that the Legislature probably wouldn't act retroactively to charge fees to Senate Bill 38 reporters for 2010, but could potentially authorize fees for 2011.

Natural Gas Distribution in Oregon

Randy Friedman gave a presentation on natural gas distribution (PowerPoint). The purpose of this presentation was to inform the committee and enhance future discussion on potential reporting requirements for natural gas distributors.

Three natural gas distribution companies serve Oregon customers. If the reporting requirements were to apply to these companies, we would need to subtract out the emissions reported by large industrial sources to avoid double counting. Large industrial sources report emissions from natural gas combustion to DEQ under the stationary source reporting rules. Several large sources bypass the distribution companies through a direct connection to natural gas pipelines. Natural gas line losses are low (about 0.5%) and likely due to meter inaccuracies rather than fugitive emissions.

Natural gas consumed in Oregon has little variation in carbon and fuel content and does not contain biogases. A member noted that some companies receive fuel analyses from suppliers to ensure that gas specifications match what companies are supposed to be burning. Companies also use continuous monitoring or grab samples to measure sulfur and CO content. They rely on specifications to determine emissions factors.

Propane Gas Distribution in Oregon

Mr. Glassgow gave a presentation on propane gas distribution (PowerPoint and handout). The purpose of this presentation was to inform the committee and enhance future discussion on potential reporting requirements for propane distributors.

Propane accounts for about 1% of fossil fuel consumption in the nation. Reporting at the federal level will likely occur at refineries and natural gas plants. Since carbon content varies across the nation, it may be appropriate to use a unique emissions factor for propane in our region.

There are about 40 propane locations in Oregon operated by 17 propane dealers. Many of these are small businesses with fewer than 10 employees. Companies wouldn't be comfortable reporting sales between propane dealer and wholesaler for confidentiality reasons.

Petroleum companies voluntarily report annual sales of propane in surveys to the American Petroleum Institute. API publishes total annual sales by state in December of the following year. Since companies aren't required to report, API extrapolates survey responses to estimate total annual sales. The Propane Education and Research Council provides a rebate to states based on survey responses, which state associations use for marketing and training. This creates an economic incentive to the state for companies to report.

API's report would reflect increased use of propane as a transportation fuel; it wouldn't reflect increased use in some emerging markets because of the way the fuel is distributed (e.g. canisters for household tools). In agriculture, about 80% of farms each use several thousand gallons of propane annually.

It was suggested that DEQ could obtain information from API in lieu of reporting from companies, if the available information were consistent with the purpose of Oregon's greenhouse gas reporting rules. *DEQ staff response: We may need propane distributors to report to DEQ to collect sufficient information. DEQ could compare propane sales published in the API report to DEQ's inventory to help identify whether all propane sales are reported to API.*

Next steps

DEQ will meet with stakeholder workgroups to discuss the details of reporting requirements for power importers and fuel distributors. The committee cancelled its December meeting; workgroups will meet at the same location and date. Members are welcome, but not required, to attend workgroup sessions. DEQ would return to the committee with a proposal and ask the committee to make recommendations on the reporting requirements. The committee will need to schedule additional meetings in early 2010.

Adjourn

Appendix D: Oregon Greenhouse Gas Reporting Advisory Committee Meeting Notes, January 21, 2010

DEQ Headquarters
9:00 a.m. – 12:15 p.m.

Overview

Oregon's greenhouse gas reporting advisory committee convened to provide input on revisions to Oregon's greenhouse gas reporting rules. The committee plans to hold meetings from September 2009 through early 2010. The following is a summary of the committee's fourth meeting. DEQ staff responses to questions and comments are shown in *italics*. These are the responses DEQ provided to the committee at the meeting and not official DEQ responses.

Attendance

Advisory committee members

Mark Reeve, Chair - Reeve Kearns PC	Kathryn VanNatta - Northwest Pulp and Paper Association
Michael Armstrong - City of Portland Bureau of Planning and Sustainability	Tom Wood - Stoel Rives/Ash Grove Cement
Pam Barrow - Northwest Food Processors Association	Member substitutes and additional representation
Shanna Brownstein - The Climate Trust/The Offset Quality Initiative	Lana Butterfield - Northwest Propane Gas Association
Angus Duncan - Bonneville Environmental Foundation	BJ Moghadam - PacifiCorp
Jim Edelson - Oregon Interfaith Global Warming Campaign	Paul Romain - Oregon Petroleum Association
Ed Elliott - Northwest Propane Gas Association	Lance Woodbury - Oregon Petroleum Association
Sandy Flicker - Oregon Rural Electric Cooperative Association	Others in attendance
Lee Fortier - Dry Creek Landfill	Maureen Bock - Oregon Department of Transportation
Brock Howell - Environment Oregon	Andrea Curtis - DEQ
Brendan McCarthy - Portland General Electric	Bill Drumheller - Oregon Department of Energy
Holly Meyer - NW Natural	Maury Galbraith - Oregon Public Utility Commission
Tom O'Connor - Oregon Municipal Electric Utilities Association	Merlyn Hough - Lane Regional Air Protection Agency
Danelle Romain - Oregon People's Utility District Association; Oregon Petroleum Association	Uri Papish - DEQ
Scott Stewart - Intel Corporation	

Approve meeting notes from November 16, 2009

Mr. Reeve requested approval of the draft notes for the November meeting. The committee approved the notes with the following revisions: 1. Show that italicized responses in the notes are DEQ staff responses during the meeting and not official DEQ responses. 2. Strike the statement that propane is becoming a significant motor vehicle fuel for some fleet operations and its use in emerging markets is increasing. 3. Revise the number of Oregon propane dealers from twenty five to seventeen.

Updates on project timeline, rulemaking for year one fees and workgroup sessions
Mr. Reeve gave an overview of changes to the project schedule including the need for additional committee meetings. The committee cancelled its December meeting. Instead, DEQ convened workgroups with representatives from electricity and fuel sectors. DEQ believes the committee needs two more meetings to resolve remaining issues. DEQ will propose meeting dates to the committee via e-mail.

Mr. Papish gave an overview of the rulemaking for year one fees and the workgroup sessions.

- EQC adopted temporary rules for year one fees in December 2009. DEQ issued invoices to sources it anticipated would likely meet the reporting threshold.
- DEQ plans to include a requirement for continuous reporting in its follow up, regular rulemaking proposal. A source subject to reporting that drops below the emissions threshold would need to continue to report until emissions are below the threshold for three consecutive years. The existing reporting rules are problematic because reporters near the threshold could drop in and out of the program if emissions vary from one year to the next.
- DEQ created a straw proposal of tentative reporting requirements based on options and concerns identified at the electricity and fuel workgroups. Recordings of meetings are available upon request. DEQ intends to provide the committee a conceptual rule outline at the next meeting.

Members requested clarification of the fee period and refund process. *DEQ response: The fee adopted in the temporary rule is for the 2010 calendar year. Sources that shut down or don't meet the threshold in 2009 and anticipate they won't meet the threshold in 2010 can appeal the invoice. DEQ included a letter with invoices requesting sources to call DEQ to appeal the invoice. DEQ will refund fees paid by sources that are below the threshold in 2010. As authorized by rule, DEQ intends to collect the fee for 2010 from all sources that exceed the threshold in 2010.*

As requested by committee members, DEQ will provide the committee the EQC staff report containing the distribution of fees predicted by DEQ in December 2009 and a list of sources invoiced with invoice amounts. DEQ was conservative in estimating the quantity of sources subject to fees. DEQ issued approximately 170 invoices; however, a number of sources appealed the invoice.

Straw proposal: Reporting requirements for power importers and fuel distributors
Ms. Curtis gave an overview of DEQ's straw proposal.

<u>Gasoline, diesel and heating oils</u>
Terminals and bulk plants hold air quality permits and already report fuel throughput to DEQ. DEQ felt it might be practical to require greenhouse gas reporting from these sources. To avoid double counting of fuels, since bulk plants purchase fuels from terminals, DEQ could require bulk plants to report aggregated number of fuels purchased from in-state terminals. DEQ would also need to subtract out fuel quantities reported by stationary sources from fuel quantities reported by terminals. DEQ will continue workgroup sessions with fuels stakeholders outside of the full committee to focus on efficient reporting options.

- ➢ A member commented sources may purchase large diesel quantities from terminals and store the fuel onsite for years. Fuel may be better tracked if reported when burned rather than when purchased. *DEQ response: DEQ would assume quantities reported by terminals were burned during the year. This assumption could result in inaccuracies for a given year, but this may balance out over time.*

- A member asked how certain fuel types would be captured, such as biodiesel, to align the greenhouse gas reporting program with the Oregon Low Carbon Fuel Standard. *DEQ response: DEQ would like greenhouse gas reporting and the Low Carbon Fuel Standard to affect the same entities, but due to timing and differences in the programs, DEQ wouldn't collect the same level of information from greenhouse gas reporters. Unlike the Low Carbon Fuel Standard, the greenhouse gas reporting program won't evaluate life-cycle carbon content of fuels. Greenhouse gas reporters would provide quantities of fuel by fuel type and apply emissions factors used by EPA.*

- A member commented reporting from terminals and bulk plants would not provide an accurate picture of gasoline fuels consumed in Oregon because terminals export fuel, bulk plants exchange fuel and some fuels from out-of-state terminals are imported for use in Oregon. There would be a high incidence of duplicative reporting. As an alternative, the member suggested DEQ evaluate quantities of taxable gasoline reported to the Oregon Department of Transportation because the information is already reported and we can assume the fuel quantities are consumed in Oregon. The ODOT reports include fuel exports, imports, inventory and sales including sales for farms, school districts and gas stations.

- Members suggested DEQ consider the weight mile tax for an accurate assessment of diesel consumed in Oregon. The weight mile tax considers vehicle mileage and miles traveled in Oregon, rather than quantities of fuel purchased. The majority of diesel fuels are sold to truckers, which travel out of state. A member noted Oregon doesn't have complete reporting of red dye fuel (e.g. heating oil, farming and marine fueling). Red dye fuel is the smallest portion of diesel used in the state. It was suggested DEQ consider quantifying quantities of red dye fuel at the terminal level, such as the percent of red dye fuel sold at the terminal relative to total diesel sales. It was also suggested ODOT revised its gas tax reports to include diesel fuels and DEQ use the gas tax reports.

Natural gas

The tentative reporting requirements apply to natural gas suppliers in Oregon that will be reporting to EPA. DEQ would like to align state reporting requirements with reporting to EPA as much as possible, with fuel delineated for Oregon. DEQ will continue workgroups with natural gas representatives on reporting details. One of DEQ's concerns is several entities bypass the natural gas suppliers; these sources have a direct connection to pipelines and likely already report natural gas combustion to DEQ under the stationary source rules.

A member representing a natural gas company commented it might be possible for suppliers to provide customer names to avoid duplicative counting of natural gas emissions.

Liquefied petroleum gas

DEQ considered two options for reporting of propane fuel. DEQ could use reports from the American Petroleum Institute or require reporting from propane wholesalers. DEQ has several concerns with using reports from the institute. Since reporting by propane dealers to the institute is voluntary, the institute estimates total sales from non-reporters through extrapolation. Although the data may be accurate, DEQ doesn't have a way to certify and verify its accuracy. In addition, the report has a one-year data lag, which would delay DEQ's ability to collect and evaluate the data.

As requested by members, DEQ will strike the statement from the straw proposal that there may be an incentive to misreport to the institute. A member explained that rebates determined through reporting to the institute go to the state association, not propane dealers. Members representing the propane association felt that DEQ’s concerns with using reports from the institute could be overcome, but are agreeable to reporting by wholesalers if DEQ can’t use the institute’s report.

Electricity

The statute is specific in what EQC can require from investor and consumer owned utilities. Although EQC has broad authority in what it can require from electricity service suppliers, DEQ intends to require the same information from suppliers as it will require from investor owned utilities. DEQ will continue workgroups with utility stakeholders to discuss key issues, including how to collect sulfur hexafluoride emissions and how to establish emission factors. One of DEQ’s concerns is the emissions factor should not create an incentive to report known power as system power.

- A member asked if we could impute a transmission line loss factor for electricity service suppliers. *DEQ response: DEQ could use an imputed value. Most electricity is transported by Bonneville Power Administration and the administration may provide DEQ information on line loss and sulfur hexafluoride losses voluntarily. Although DEQ would like to collect information on transmission equipment losses for all power consumed in Oregon, the statute limits DEQ to collect information on transmission line losses for equipment located in Oregon.*

- A member suggested DEQ require estimates of line losses from electricity service suppliers and consumer owned utilities since DEQ would require this from investor owned utilities. *DEQ response: DEQ isn’t opposed to the suggestion, but will need to evaluate the details to do that.*

- A member commented the sum of power generated and power purchased is not equivalent to Oregon’s consumption. We need to identify power used to serve load, rather than power sales. Utilities frequently make wholesale sales to other companies.

- A member commented that harmonizing Oregon’s reporting requirements with other protocols would benefit reporters who have reporting obligations to other jurisdictions. For example, Portland General Electric has reporting obligations to California. *DEQ response: DEQ will consider whether we could modify California’s reports to work for Oregon.*

- Members want to ensure consumer owned utilities aren’t penalized for not having fuel type information for purchased power. Utilities can’t compel Bonneville Power Administration or other power suppliers to provide fuel type information. *DEQ response: Bonneville Power Administration may report fuel type voluntarily, when its known. DEQ has concerns about the accuracy of information report by the administration on behalf of utilities and needs to determine who would certify reports. The administration may not want to certify that it supplied all of a utility’s power. Utilities would have an obligation to report power purchased from suppliers other than the administration.*

- A member noted there is a Washington cooperative that has a small customer base in Oregon, is not a member of the Oregon association and may not be aware of DEQ’s proposal.

- Members representing consumer owned utilities would like to use existing forms, if possible, to reduce the administrative burden of reporting. Information needed by DEQ could be added as line items to the form. At the time Senate Bill 38 was introduced and adopted, utility representatives discussed using the Oregon Public Utility Commission statistics report. The report contains everything except contract type with Bonneville Power Administration. *DEQ response: DEQ will evaluate the report suggested by members.*

Public comment

No persons signed up to provide public comment.

Future years fees and permanent rulemaking

Mr. Papish described possible scenarios for the permanent rulemaking. The temporary rules for year one fees (2010 fees) expire in June 2010. DEQ will propose regular, permanent rulemaking in 2010 for year one fees and future years' fees. Although the rulemaking will bring in additional reporters, EQC lacks legislative authority to establish fees for unpermitted sources. If DEQ required reporting from terminals and bulk plants, which hold permits with DEQ, EQC might have authority to charge fees to these sources. This option would reduce the fees for current reporters. However, the committee identified several problems with this option. If DEQ doesn't charge fees to this subset of new reporters, it could continue using the fee structure established for year one or consider a different structure. The earliest EQC could receive legislative authority to assess fees to all of the new reporters is the 2011 session. Until then, DEQ is limited to the universe of existing reporters.

As described earlier in the meeting, DEQ would like the rulemaking to include a requirement that reporters who reduce emissions below the threshold continue to report for three years. This would prevent confusion for sources and DEQ about the need to report from year to year.

- Members suggested DEQ consider options to collect money from the Oregon Department of Transportation. *DEQ response: DEQ will evaluate this option; however, there may be legal issues in terms of how ODOT may spend its funds. The option would require ODOT to transfer funds away from its programs*.

- A member commented that reporters have the impression they are subject to year one fees if they met the threshold in 2009. *DEQ response: DEQ expects sources who emitted over the threshold in 2009 to pay year one fees unless the source is shutdown. If DEQ finds that a source who paid the invoice is below the threshold in 2010, DEQ will refund the fees.*

- A member suggested the refund mechanism be clear in the rule, including a deadline for refunds.

- A member commented that fees for the second year of the program would be issued to reporters in fall 2010, but DEQ won't yet have a full year of data collected to base fees on. Mr. Reeve commented that the committee needs a finer understanding of the source universe by the next meeting. *DEQ response: DEQ is working to identify sources subject to the proposed fees for future years. It will be difficult to change the fee structure without complete data. The source universe will likely be close to DEQ's estimations for year one unless new reporters are subject to fees. DEQ would like to continue using the fee structure recommended by the committee for year one unless the committee wishes to develop a new structure. If additional reporters are subject to fees, DEQ could lower the cap or reduce the percent of the fee.*

- A member suggested DEQ not have an aggressive enforcement process regarding the upcoming reporting deadlines. Members suggested DEQ perform additional outreach to sources about the reporting requirements before the deadlines. *DEQ response: DEQ identified sources it anticipates are subject to reporting and will contact sources who don't submit a report. DEQ will be as flexible as possible in the first year of the program, and has made information available to sources on its website, at workshops and encourages sources to call staff with questions.*

- A member heard DEQ's EZ-Filer web-based reporting system was down and was concerned this could interfere with reporting. Members have concerns about the security of the EZ-Filer system since any person could create an account and potentially falsely report for a permitted source. *DEQ response: DEQ will investigate issues with EZ-Filer. Once a user establishes an account, its password protected.*

Committee recommendations on conceptual plan

DEQ will continue discussions with stakeholder workgroups and return to the committee with a revised straw proposal for review, comments and approval.

Adjourn

Appendix E: Oregon Greenhouse Gas Reporting Advisory Committee Meeting Notes, April 1, 2010

DEQ Northwest Region
9:00 a.m. – 12:00 p.m.

Overview

Oregon's greenhouse gas reporting advisory committee convened to provide input on revisions to Oregon's greenhouse gas reporting rules. The committee held meetings from September 2009 to April 2010. The following is a summary of the committee's fifth, final meeting. DEQ staff responses to questions and comments are shown in *italics*. These are the responses DEQ provided to the committee at the meeting and not official DEQ responses.

Attendance

Advisory committee members

Mark Reeve, Chair - Reeve Kearns PC	Tom Wood - Stoel Rives/Ash Grove Cement
Michael Armstrong - City of Portland Bureau of Planning and Sustainability	Tom Zelenka - Schnitzer Steel/Cascade Steel Rolling Mills
Shanna Brownstein - The Climate Trust/The Offset Quality Initiative	Member substitutes and additional representation
Kyle Davis – PacifiCorp	Lana Butterfield - Northwest Propane Gas Association
Jim Edelson - Oregon Interfaith Global Warming Campaign	John Ledger - Associated Oregon Industries
Sandy Flicker - Oregon Rural Electric Cooperative Association	Paul Romain - Oregon Petroleum Association
Lee Fortier - Dry Creek Landfill	Dave Ezell - Northwest Propane Gas Association
Brock Howell - Environment Oregon	Others in attendance
Brendan McCarthy - Portland General Electric	Andrea Curtis – Oregon Department of Environmental Quality
Holly Meyer - NW Natural	Bill Drumheller - Oregon Department of Energy
Tom O'Connor - Oregon Municipal Electric Utilities Association	Andy Ginsburg - Oregon Department of Environmental Quality
Danelle Romain - Oregon People's Utility District Association; Oregon Petroleum Association	Marjory Lifsey - Oregon Department of Transportation
Scott Stewart - Intel Corporation	Merlyn Hough - Lane Regional Air Protection Agency
Kathryn VanNatta - Northwest Pulp and Paper Association	Uri Papish - Oregon Department of Environmental Quality

Approval of meeting notes from January 21, 2010
The committee approved the draft meeting notes.

Review of draft rules
Mr. Papish gave an overview of the draft rules. DEQ plans to begin the public notice period for the proposed rules in May 2010. The public notice period will include opportunities to comment. DEQ intends to propose the rules for adoption at the October 2010 Environmental Quality Commission meeting. DEQ typically issues invoices to Title V operating permit holders in August, but would delay invoices in 2010 until after adoption of the greenhouse gas reporting fees so DEQ could issue fees for both programs in one invoice. Below is a summary of the committee's discussion by each section of the draft rules:

<u>Applicability for stationary sources</u>
340-215-0030(2): The draft rules eliminate the table for air contaminant discharge permit sources and instead require any facility that holds an air quality permit and meets the reporting threshold to report.

- A member believes this would cause additional stationary sources to be subject to greenhouse gas reporting. The sources wouldn't know until late in 2010 they need to report 2010 emissions in 2011. *DEQ response: The original intent of the table was to make it easier for sources to determine whether they are subject to greenhouse gas reporting rules. DEQ felt the table might create a loophole, but had not anticipated removing the table would cause additional sources to be subject to the rules. DEQ will evaluate this issue.*

- Members recommended revising the rule language to clarify the 2,500 ton reporting threshold applies to stationary sources listed in this section of the rule and not the electricity and fuel suppliers in other sections of the rule.

<u>Applicability for fuel suppliers</u>
340-215-0030(3): The draft rules apply to licensed fuel dealers that pay Oregon fuel taxes. The rules also contain a catchall provision for fuels not transported through licensed fuel dealers such as rail fuel. The rule language needs further review to ensure it captures the right entities.

340-215-0030(4): The draft rules are applicable to natural gas suppliers that provide natural gas to end users.

340-215-0030(5): The draft rules are applicable to propane importers and are intended to target propane wholesalers; however, the language may be too broad. Exemptions are needed for people who import propane in small quantities, such as propane canisters for recreational use.

<u>Applicability for electricity suppliers</u>
340-215-0030(6): The draft rules are applicable to electricity suppliers that provide electricity to end users in the state.

- A member noted some electric utilities might operate small generators requiring them to report greenhouse gas emissions as stationary sources in addition to reporting greenhouse gas emissions as electricity suppliers. We want to avoid a situation where a source is subject to double reporting. *DEQ response: The utility would report all sources of power it delivers. DEQ is interested in feedback on this issue.*

- A member noted there are no direct emissions associated with electricity transmission. *DEQ response: DEQ intends to collect information on total generation for the load served. Because* *total generation includes transmission loss, greenhouse gas emissions associated with electricity transmission would be included in emissions reported for generation of the electricity.*

Reporting exemptions
340-215-0030(9): Similar to EPA's rule, DEQ's draft rules contain a "once in always in" requirement with provisions. If a stationary source's emissions are below the reporting threshold for three years, the source would no longer be required to report emissions beginning the following year. In addition, if a stationary source shuts down, it would not be required to report emissions beginning the following year. A source would need to notify DEQ it qualifies for the provisions before the reporting deadline. If a source exceeds the reporting threshold in a future year, it would be subject to the reporting requirements again.

- Members discussed the scenario where a stationary source drastically reduces its emissions, but is still subject to fees for three years. To be sensitive to sources that don't expect to come back into the reporting program, DEQ could consider allowing sources to certify they have a permanent change in emissions. *DEQ response: The purpose of requiring continued reporting is for sources to show they've established a new lower level of emissions, rather than having a temporary downturn. DEQ will be invoicing for the upcoming year and wants a stabile source universe so it knows who will be reporting. DEQ would have administrative problems if it invoiced sources for the upcoming year, and then had to refund fees later upon finding sources were below the threshold.*

- The committee discussed whether the reporting exemptions would apply to electricity suppliers and fuel distributors added by the rule. *DEQ response: The draft rules require electricity suppliers and fuel distributors to report only if they supplied electricity or fuels during the reporting year. Once a source is no longer covered by the applicability section of the rule, it wouldn't need to report.*

Reporting deferrals
340-215-0030(10): Fuel suppliers may not have adequate diesel records for reporting. The draft rules allow DEQ to defer reporting of diesel from fuel suppliers since suppliers won't know until late 2010 they need to report 2010 fuels in 2011.

- Members suggested the provision apply to additional reporters, including other electricity suppliers and fuel distributors added by the rule and stationary sources that would be added by elimination of the rule tables. *DEQ response: DEQ will look at whether we could insert a more general provision.*

Reporting deadlines
340-215-0040: The draft rules change the reporting deadline from March 15 to March 31 to align Oregon's rules with EPA's rules.

- While members believe fuel distributors could meet the deadline, electricity suppliers would have problems providing DEQ the required information by March 31. Due to federal requirements affecting Bonneville Power Administration, consumer owned utilities wouldn't receive system mix information from the Administration until after April 1. Members felt June 1st, as required in California's greenhouse gas reporting rule, is a workable deadline for electricity suppliers. *DEQ response: DEQ will look into this issue.*

Requirements for stationary sources
340-215-0040(1)

- A member commented DEQ's rules and EPA's rules contain exemptions for categorically insignificant activities and may use different definitions regarding exempt activities. We need to clarify when a source should use DEQ's criteria or EPA's criteria. *DEQ response: Sources who report to EPA and DEQ would follow EPA's rules. Sources who report to DEQ only, and not EPA, would follow DEQ's rules. We should revise DEQ's rule so the exemption doesn't apply to sources that report to EPA.*

Requirements for fuel distributors
340-215-0040(2): The draft rules would allow licensed fuel dealers who report to the Oregon Department of Transportation to either report to DEQ or satisfy reporting requirements by providing DEQ a copy of the dealer's ODOT report. ODOT is performing rulemaking to require reporting of diesel and would revise its forms to collect non-taxed fuels. DEQ is working with ODOT and hopes the new report will include a one page summary of taxed and non-taxed fuels for the entire year, by fuel type, which could be applied emission factors for greenhouse gases.

- Members supported DEQ's work with ODOT on requirements and hope fuel distributors are able to report electronically in the future.

340-215-0040(3): The draft rules contain reporting requirements for natural gas suppliers and propane wholesalers.

- A member requested DEQ clarify whether natural gas quantities would be reported in therms or volumes and recommended DEQ require volume. *DEQ response: DEQ will address this in reporting protocols, not the draft rules. Stakeholders will have opportunities to review protocols before they are adopted.*

Requirements for electricity suppliers
340-215-0040(4): The draft rules contain reporting requirements for electricity suppliers. DEQ excluded several requirements authorized by Senate Bill 38 that DEQ didn't feel were necessary. For example, DEQ won't require utilities to report line losses for transmission equipment owned by the utility nor will DEQ require reporting of power wheeled by a utility for another company. Most electricity is transmitted by Bonneville Power Administration.

- Members discussed whether DEQ would calculate emissions for electricity purchased by the utility. California's reporting rule requires utilities to report only quantities of electricity. Some members felt emissions factors shouldn't be adopted by rule because their values may change over time; instead, the rules could reference default emissions factors outside of rule. *DEQ response: DEQ would require investor owned utilities to calculate emissions associated with electricity purchases and null power. Senate Bill 38 authorizes EQC to require reporting of emissions based on emissions factors established by rule. DEQ would like utilities to calculate emissions; however, DEQ could possibly remove emissions factors and the requirement for emissions calculations. Instead, DEQ would need to calculate emissions or reporters could voluntarily calculate emissions.*

- Members discussed an appropriate emissions factor for electricity purchases where renewable energy certificates are transferred or sold. Renewable and clean energy sources have varying quantities of greenhouse gas emissions depending on resource type. Although the decision would be addressed outside of the advisory committee, several members felt renewable energy sources shouldn't be assessed or penalized at higher emission levels when energy is stripped of its renewable energy credits. *DEQ response: Although emissions streams aren't regulated, DEQ wants to understand emissions streams and amounts that could be regulated in the future. In addition, we want Oregon's inventory to be aligned with other state inventories to avoid a situation where multiple states are counting wind power twice because a renewable energy certificate was sold across state lines. The draft rules do not yet contain an emissions factor because of the complexities discussed by the committee. Project staff noted it's uncertain how emissions quantities will be treated in future regulations.* A committee member requested Oregon not account for emissions associated with renewable energy sources based on how another state accounts for emissions from a purchased renewable energy certificates.

Requirements for stationary sources
340-215-0040(7): The draft rules require stationary sources to report their suppliers of natural gas; however, DEQ will remove the requirement if it determines it doesn't need the information. DEQ added this requirement because it identified possible problems with counting Oregon's total greenhouse gas emissions from natural gas. It would be complex for natural gas suppliers to identify fuel use by customers.

- A member believes stationary sources would prefer not to disclose their natural gas supplier as public information.

Voluntary reporting
340-215-0030(7) and 340-215-0040(6):

- Several members suggested DEQ eliminate voluntary reporting from the existing rules. Industries are paying for the reporting program and shouldn't pay DEQ's costs for voluntary reporting. If DEQ were to keep voluntary reporting, it would be fair to charge voluntary reporters a fee. While one member felt the rule language benefits the state by allowing DEQ a structure for accepting voluntary reports, other members noted alternative venues endorsing protocols for voluntary reporting. The Climate Trust could help work through issues with voluntary reporting if needed. *DEQ response: The rules contain provisions for voluntary reporting based on the advisory committee recommendations in 2008. DEQ doesn't see any issues with removing voluntary reporting from the rules. Several sources below the threshold reported emissions voluntarily; however, it appears this was only to show DEQ the sources weren't subject to the reporting program.*

Reporting to EPA
340-215-0040(8): The draft rules allow sources required to report to EPA to satisfy DEQ's reporting requirement by submitting a copy of the report to DEQ; however, they allow DEQ to require additional information to delineate emissions for Oregon. The draft rules require a hard copy of the report to EPA, although it's possible in the future EPA may be able to provide DEQ the necessary data.

- A member suggested the rule show DEQ is not asking for duplicative reporting. *DEQ response: DEQ will work on the rule language to address the suggestion.*

Greenhouse gas reporting fees
340-215-0050: Each stationary source holding an air quality permit would be required to pay greenhouse gas reporting fees equal to fifteen percent of the source's permit fee; the greenhouse gas fee is capped at a maximum of $6,000 per source. This is the same fee structure recommended by the committee for the

temporary rulemaking adopted in December 2009. The committee felt charging fees based on a percentage of a source's current permit fee with a cap is the best approach for structuring the fees. DEQ hasn't yet received reports from all sources it believes are subject to the reporting rules. In addition, DEQ received reports from some sources it didn't anticipate would be subject to the reporting rules. DEQ will continue evaluating the source universe and adjust the fees prior to rulemaking based on committee recommendations.

- ➢ Members noted some sources would receive two invoices during 2010 and companies who own multiple greenhouse gas reporters would bear the burden of paying fees for multiple sources.

- ➢ Some members felt it isn't equitable for permit holders to bear the burden of paying for the program; the fee should also be assessed to the non-permitted reporters. *DEQ response: EQC's existing authority to assess fees applies only to permitted facilities. Legislation wasn't introduced during the 2010 special session to expand fee authority to non-permitted sources; however, it's possible legislation will be introduced during the 2011 session to establish this authority.*

- ➢ A member felt DEQ should ensure the program budget doesn't have an ending balance to avoid sweeps by the Legislature. For example, DEQ could issue refunds to sources if revenue collected exceeded program costs for a given year. *DEQ response: DEQ doesn't believe the relatively small amount of revenue in the greenhouse gas reporting program would be targeted for sweeps. DEQ needs to set the fee at a level sufficient to cover program costs for several biennia. It can't perform annual rulemaking to raise the fee to meet annual increases in program costs and it would be costly to issue credits or refunds each year.*

- ➢ If DEQ is able to reduce fees, there was consensus among members to reduce the cap to the extent possible, instead of reducing the percent assessed on permit fees.

Public Comment

Tony Zeigler, a programmer with Strategic Solutions Northwest, discourages allowing people to report emissions through other systems because it could introduce too much complexity into the reporting program.

Administrative Procedure Act Requirements and Review of Fiscal and Economic Impacts

The Administrative Procedures Act requires DEQ to perform a fiscal impact study for the proposed rules and involve the advisory committee in fiscal analysis. DEQ provided the committee its draft Statement of Need and Fiscal and Economic Impact for the draft rules and an overview of the Administrative Procedures Act. DEQ asked the committee the following questions derived from ORS 183.333 and ORS 183.540. Answers are summarized at the end of this section.

- Do the rules have a fiscal and economic impact?
- If the rules have a fiscal and economic impact, what is the extent of the impact?
- Do the rules have a significant adverse impact on small businesses?
- If there is a significant adverse impact on small businesses, what does committee recommend DEQ do, pursuant to the act, to reduce the impact while still achieving the purpose of the rules?

- ➢ A member noted although the statute and rule were drafted to minimize the burden on consumer owned utilities, there are still costs to utilities. Pacific Northwest Generating Cooperative members will be paying the cooperative to report on their behalf. In addition, administrative costs for small utilities are larger than administrative costs for large utilities because small utilities have fewer employees and resources.

- A member had concerns about the rules affecting importers of propane canisters, such as retailers who import canisters for camping, but noted DEQ is working with stakeholder representatives on the issue.

- A member suggested DEQ provide a streamlined, simple reporting form or spreadsheet to reporters so it's clear what is required. While large businesses may not be able to use the forms, this would reduce the burden of reporting on small businesses. *DEQ response: DEQ provided online reporting and streamlined forms for existing reporters for fuel combustion; DEQ intends to be clear about the level of detail required so small businesses won't spend excessive time on accuracy. DEQ will set up reporting protocols in a way that allows for some reasonable level of uncertainty.*

- Members discussed DEQ's verification procedures. California's verification process for electricity suppliers is excessive, although suppliers are already reporting to the Federal Energy Regulatory Commission. There are opportunities to streamline verification processes and costs. If reporters will be spot-audited, they'll want to know the minimum criteria required for the audit. A member felt auditing fuel suppliers would be unnecessary because the Oregon Department of Transportation already has high interest in the accuracy of fuel supplier data. *DEQ response: DEQ hasn't established verification procedures or plans for auditing. DEQ is not requiring third party certification. Oregon doesn't have a cap and trade program, which could require a different set of verification procedures. The reporting rules specify how long reporters must maintain records. Existing reporters are permitted facilities already subject to inspections and compliance certifications under the permitting programs. DEQ doesn't inspect reporters added by Senate Bill 38 and doesn't yet have a plan for these reporters.*

- The Statement of Need and Fiscal and Economic Impact identifies six small businesses holding Air Contaminant Discharge Permits that would be subject to fees. A member felt this number was low. *DEQ response: The reporting threshold eliminated many small businesses. The statement identifies the number of small businesses required to report greenhouse gas emissions, not the total number of small businesses that hold permits. DEQ collects "business size" from businesses on permit application forms and will look at the numbers in the statement more closely.*

- A member noted the Statement of Need and Fiscal and Economic Impact shows adding reporting requirements for electricity suppliers and fuel distributors has no impacts to local governments; however, municipal utilities and public utility districts are technically considered local governments. *DEQ response: DEQ will revise the statement.*

- A member suggested DEQ regularly evaluate the EZ-Filer reporting system to ensure the system is working properly.

- A member felt the cap benefits larger businesses, while small business tend to be smaller emitters of greenhouse gases. If DEQ is able to lower costs to businesses, it could reduce the impact on small businesses by lowering the percent assessed on permit fees, rather than reducing the cap.

- There was consensus the proposed rules will have a fiscal and economic impact on businesses based on the greenhouse gas reporting fees and based on the administrative costs of reporting. Although the rules have a significant adverse impact on small businesses, members stated DEQ minimized costs as much as possible at this point. The committee didn't recommend DEQ take additional steps to further reduce significant adverse impacts on small businesses at this time. *DEQ response: DEQ takes a conservative approach in estimating fiscal impacts. Some fiscal and economic impacts of the rules were anticipated during development of Senate Bill 38, such as allowing simplified requirements and third party reporting for small utilities. DEQ will incorporate suggestions into the Statement of Need and Fiscal and Economic Impact and committee members are welcome to provide DEQ additional feedback.*

Draft committee report to EQC

Mr. Papish reviewed the draft committee report to EQC. DEQ will add the committee's recommendations on fiscal impact review to the committee report and add member opinions regarding fees for Senate Bill 38 reporters. DEQ will review and update the numbers or reporters in the Statement of Need and Fiscal and Economic Impact and in the committee report to EQC.

- A member noted reporting requirements described in the draft committee report were outdated and suggested DEQ put some of the draft rule language in the committee report. *DEQ response: DEQ will update the language in the report.*

- A member requested DEQ include numbers of sources per fee level in the committee report as of the date of the report. *DEQ response: Although DEQ is still receiving greenhouse gas reports from sources, it will continue to evaluate the source universe and include the most current information possible in the committee report.*

Fees for Senate Bill 38 reporters

DEQ is directed by Senate Bill 38 to report back to the legislature after evaluating the funding mechanism for developing and implementing the greenhouse gas reporting program including whether a schedule of fees should be established for the electricity suppliers and fuel distributors added by Senate Bill 38. DEQ didn't express support or opposition for new fees and didn't expect the committee to reach consensus on a recommendation, but requested committee members express opinions and raise issues for DEQ to include in its report to the legislature.

In the 2009 Legislative session, two bills introduced reporting requirements for electricity suppliers and fuel distributors. Senate Bill 80, among other things, included a fee for the reporters while Senate Bill 38 did not. When it became clear Senate Bill 38 would likely be the bill to pass, DEQ considered adding language for fees but did not because stakeholders felt there was insufficient time to determine if and how to establish fees.

Establishing fees for electricity suppliers and fuel distributors added by Senate Bill 38 wouldn't increase revenue to DEQ; however, it would spread the costs of the program over more businesses which would reduce the fees for existing reporters. The majority of the electricity suppliers and fuel distributors don't hold air quality permits. Since existing reporters are assessed a greenhouse gas reporting fee based on their permit fees, there's no comparable mechanism to assess fees to the electricity suppliers and fuel distributors.

- While some members felt fees should be established for the reporters added by Senate Bill 38 to help pay costs of the reporting program, other members opposed creating new fees.

- Members felt there might be constitutional problems assessing fees to electricity suppliers and fuel distributors. For example, fees for fuel distributors could be problematic because the fees wouldn't be used on roads. Assessing electricity in-state vs. out-of-state could have interstate commerce issues. A member suggested there may not be a constitutional problem if the fee were generally applicable to all parties and weren't assessed as a fuel tax. *DEQ response: The constitutional question needs to be researched by the Department of Justice. A fee based on fuel sales could have constitutional problem, but a flat fee might not.*

- Members representing consumer owned utilities noted Senate Bill 38 was not associated with a fee and utility associations supported the bill under that premise. Associations pay the Oregon Department of Energy for programs beneficial to association members. That is not the case for utility associations and DEQ; utilities don't have a past relationship with DEQ and don't access DEQ programs. Utilities have a tremendous cost associated with reporting and small utilities are very green.

- A member stated propane is 1% of the work for DEQ in terms of greenhouse gas emission quantities.

- Members asked what DEQ will do with the information and what benefit reporters receive by DEQ collecting the information. It's one thing to collect information from reporters for the state and another to provide reporters a benefit. *DEQ response: DEQ is collecting the information to improve the state's overall inventory of greenhouse gas emissions, understand where the emissions come from, track progress toward the state's greenhouse gas reduction goals, identify categories appropriate for reducing emissions through regulatory or nonregulatory programs, and develop long-term plans for addressing greenhouse gas emissions and understanding impacts of regulatory programs. For example, there could be unintended consequences in cap and trade, such as reporters splitting into small entities to be under the threshold. While the rules don't have regulatory requirements other than to report, the workload for DEQ is to collect data, enter the data into its system, perform data oversight and data analysis, respond to inquiries from the legislature, media and others, and make recommendations to the governor, legislature and others about the implications of the data and what we should do with it. DEQ needs to base the program on good science and start with good data. The program is not intended to benefit reporters; the benefit to reporters is DEQ will develop regulations for reporters based on good data.*

- Some members felt if there were fees, the fees should be commensurate with costs to regulatory staff to review materials, rather than correspond to quantities of emissions. DEQ could establish a tiered flat fee based on complexity of the report. The fee could contain a multiplier to pick up overhead costs of the program. Some members felt it shouldn't be a question of marginal costs to add additional reporters because the permitted sources paid for the upfront costs of the reporting program. *DEQ response: The fees for Air Contaminant Discharge Permits are tiered on complexity. Having the greenhouse gas reporting fee tied to permit fees is somewhat correspondent to complexity of work.*

- Members discussed what the fee table would look like and how the fees would be adopted. *DEQ response: The fees would be authorized by statute and could be established at a flat or tiered rate. Whether the structure and amount were set in statute or rule is up to the Legislature. The current fees are not based on greenhouse gas emissions, but based on current permit fees. This structure was chosen to allocate costs with minimal impact. DEQ will report to the Legislature information regarding program costs, the subset of sources paying for the program and issues raised by the committee.*

- A member expressed support for funding agencies at appropriate levels, but noted the costs of the program could potentially be narrowed since the complexity of reporting had been reduced since September 2009, when the committee reconvened.

Next Steps

DEQ asked committee members to provide any additional comments within ten days of the meeting. This was the committee’s final meeting. DEQ will redistribute the draft report to members after incorporating committee recommendations.

Adjourn

State of Oregon
Department of Environmental Quality

Memorandum

Date: September 8, 2010

To: Environmental Quality Commission

From: Andrea Curtis

Subject: Written comments
Title of proposal: Oregon Greenhouse Gas Reporting Rules

The public notice period for this rulemaking opened June 15, 2010 and closed July 21, 2010. Twenty one people submitted written comment.