





Climate Protection Program
EITE Rulemaking

Advisory Committee Meeting #4





Oct. 21, 2026
DEQ Headquarters and Virtual

State of Oregon
DEQ Department of Environmental Quality

Welcome

- **Thank you for joining us today!**
- The meeting is being recorded
- Please join audio by either phone or computer, not both
- Committee members have audio and video enabled
  - Raise hand or press *9 to speak for discussion or questions
- Members of the public are in listening mode but will have audio enabled if giving public comment
- For immediate questions or technical support, please email cpp.eite@deq.oregon.gov

Meeting objectives

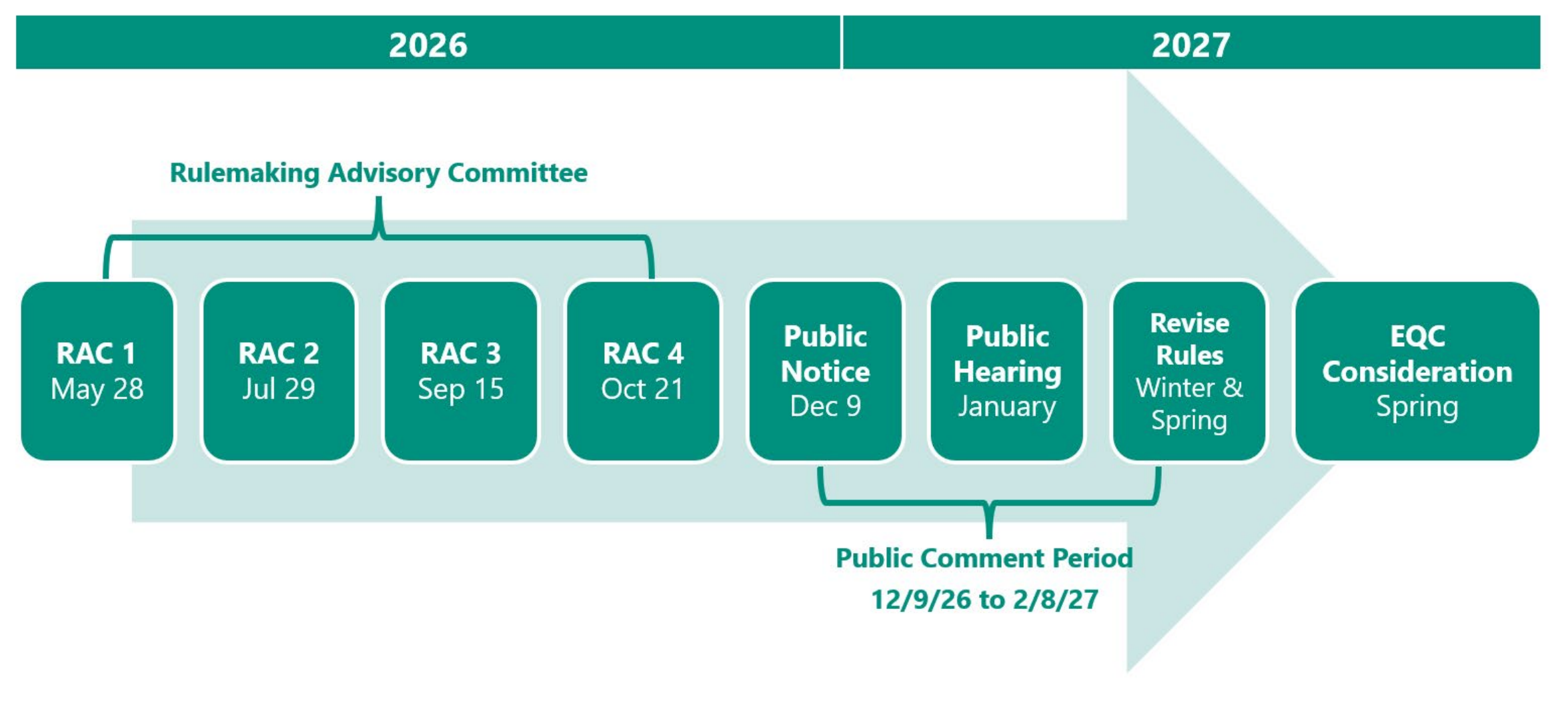
- Discuss and receive committee input on draft rules
- Discuss and receive committee input on draft fiscal impact statement
- Discuss and receive committee input on racial equity and environmental justice considerations

Meeting agreements

- Honor the agenda and strive to stay on topic
- Provide a balance of speaking time
- Bring concerns and ideas up for discussion at the earliest point in the process
- Address issues and questions – focus on substance and avoid personal attacks
- Seek to learn and understand each other's perspective
- Listen and speak with respect

Time	Topic
10 a.m.	**Welcome, meeting logistics and agenda overview**
10:15 a.m.	Discuss draft rules on benchmarks, reduction schedules and adjustments
12 p.m.	Lunch break
1 p.m.	Public comment
1:15 p.m.	Discuss draft rules on new products, processes and sources
2 p.m.	Discuss draft rules on usage of community climate investment credits
2:20 p.m.	Break
2:30 p.m.	Discuss draft rules on applicability, cessation and other clarifications
2:50 p.m.	Discuss draft rules on Enforcement Procedure and Civil Penalties, Greenhouse Gas Reporting Program and Third-Party Verification rules
3:15 p.m.	Discuss draft fiscal impact statement, racial equity statement and environmental justice considerations
3:50 p.m.	Wrap up and next steps

Rulemaking timeline



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Benchmarks (rule 0320)

Draft rules language:

- Continues to set source-specific benchmarks, product-differentiated at source request
- Standard is to use 2023-25 years
- Now using existing DEQ definitions; if those years contain **process upset** or other than **normal source operation**, can use other years

Definitions from OAR 340-200

- “Process upset” means a failure or malfunction of a production process or system to operate in a normal and usual manner

- “Normal source operation” means operation that does not include such conditions as forced fuel substitution, equipment malfunction, or highly abnormal market conditions

Using other data years instead

- Apply after DEQ issues preliminary benchmark (60 days) demonstrate process upset or other than normal source operation
- Must use data from 2021 or more recent
- DEQ will use 2-5 consecutive years 2021-2025
- Similar to Washington's approach

standard is average of recent data years
unless abnormal periods of operation that materially impacted the facility
may apply to use 3-5 consecutive years, nothing earlier than three years before standard years

New - Benchmark adjustment process (rule 0320(4))

Sources could request a benchmark revisit (in future years), or DEQ could initiate

- If a source undergoes a significant change in production, product mix, manufacturing processes or calculation methodology affecting its greenhouse gas emissions intensity, or
- If the source requests a shift between a source-wide benchmark and source-specific, product-differentiated benchmarks
- Emissions intensity increase by more than 10% from its existing benchmark for more than 24 months prior to submittal

Discussion – benchmarks

- Is using process upset and other than normal source operation the appropriate threshold for using non-standard data years?
- What are your thoughts on the proposal for 2-5 consecutive years if not the standard years?
- What are your thoughts on using 2021-2025 data for the non-standard years?
- What are your thoughts on the provisions about revisiting benchmarks?

Standard reduction schedules remains the same as RAC 3 draft (rules 0330 and 9000)

- Draft rules include reduction schedules that decrease free compliance instruments per unit of production
- Uniform schedules across sources, with potential adjustments
- EITE/DNG reductions start in 2030 and continue annually
- Schedule: 0% per year in 2028–2029, then 1.5% per year beginning in 2030

Reduction schedule adjustment requests (rule 0330)

- Technological feasibility ⇨ economic feasibility
- Economic feasibility calculation
  - EPA Air Pollution Control Cost Manual
  - Discount rate
- Allow grouping similar units
- Allow omission of units (up to 5% of emissions total)
- Require certification from Professional Engineer, no limits on previous contracts with source
- Lookout period reduced from 20 years to 10 years
- Updated application period to at least six months prior to compliance period

Limitations on adjustments (rule 0330)

- Enhanced reduction requirements after adjustment period, where possible
- No banking or trading of compliance instruments generated during an adjustment period

Identification of reduction measures

- Description of source processes
- Identification of units that contribute to covered emissions
- Identification of potential measures available in next 10 years

Technological assessment

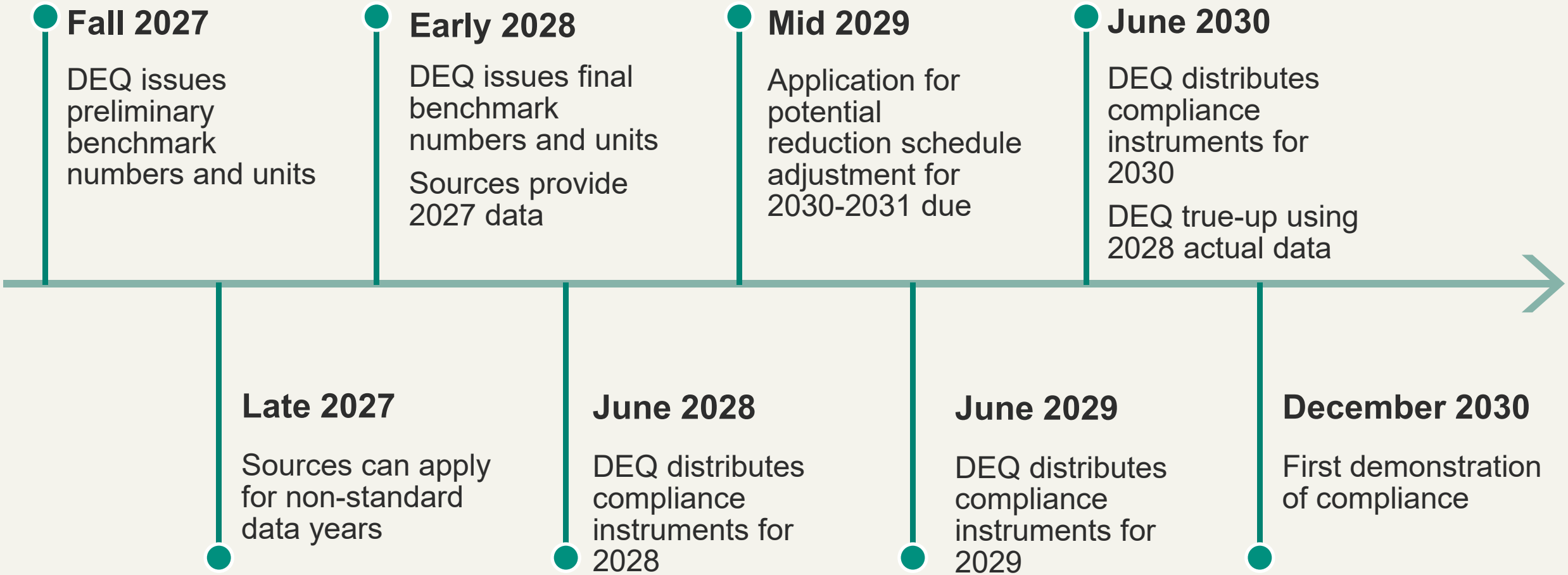
- Ability to meet process requirements
- CO_2e remissions reductions
- Availability/ maturation
- Implementation timeline
- Constraints
  Impacts to other air emissions
- PE Certification
- Rationale for “infeasibility” determination

Technologically feasible measures

Economic assessment

- Annualized expenses
- Annual CO_2e reductions
- Comparison to CCI contribution amount

Potential EITE implementation timeline



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Discussion – reduction schedule and adjustments to it

- Do you have additional thoughts about the proposed 0% reduction for two years, then 1.5% per year thereafter?
- What are your thoughts on changes to the feasibility analysis methodology?
- What are your thoughts on the application period?
- What are your thoughts on the lookout period?

Significant production downturns (rule 0330)

- Applicability for unplanned process upset or other than normal source operation and at least an 8% increase in greenhouse gas emissions intensity (down from 10%)
- Must apply at least 90 days prior to compliance instrument distribution
- Adjustment may remain in effect until end of compliance period
- Compliance instruments distributed based on forecasted emissions data
- Distribution still subject to corrections based on verified emission data

Adjusted compliance instrument distribution

Compliance instrument distribution calculated with forecasted emissions for production downturn in 2038 with applied adjustment to 2039 distribution.

Application received prior to April 1, 2039

Benchmark Emission Intensity	2038 Production	2038 Emission Intensity	Reduction Schedule
6 MT CO2e/ unit (Avg. production 3,000 units)	1,800 units (forecasted)	8 MT CO2e/ unit (forecasted)	85% 2039

1. Standard distribution calculation

6 x 0.85 x 1,800 = 9,200

Instruments distributed under the standard formula

9,200 instruments distributed 2039

→

2. Adjustment applied

2038 unverified emissions: 14,400 MT CO2e

Instruments distributed under adjustment

14,400 instruments distributed 2039

Discussion questions

- Does the definition of an “unplanned process upset or other than normal operating condition” clearly capture the types of events that may be experienced?
- Does 8% accurately reflect when an increase to emission intensity becomes significant?
- Is the 90-day timeline realistic for assembling verifiable documentation following an unplanned event?
- Would the forecasted emissions approach fairly reflect a source’s compliance instrumentation needs during this scenario?

Lunch break

Return at 1 p.m.

Questions: cpp.eite@deq.oregon.gov

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Public comment (15 min)

We are taking public comments at this time.

Raise your hand 

to join the queue

Or, if joining by phone, *9 to raise hand (and *6 to unmute)

Please say your name and affiliation before speaking
and respect any time limits and ground rules.

You may also send written comment on today's discussion topics by **November 16, 2026** to cpp.eite@deq.oregon.gov

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New products, processes, sources (rule 0320)

- Draft rules state how new sources and new products and processes would be incorporated into the Climate Protection Program
- Products introduced in 2026 or later would not incur compliance obligations until the first year of the next compliance period after DEQ assigns a greenhouse gas emissions intensity benchmark

Benchmarks for new products, processes and new sources

- Benchmarks follow a similar emissions-intensity approach
- Benchmarks use up to two years of recent production and emissions data if available
- If insufficient history exists, DEQ may use modeling, engineering estimates, comparable process data, or partial-year information to set temporary benchmarks
- Benchmarks are revisited after two full years of production at the new source or of the new product

Discussion

- Do you have additional thoughts about the proposed process for incorporating new sources, products or production processes?

Community climate investment credits (rule 0450)

- EITE and DNG sources may meet up 30% of compliance obligation with CCI credits
  - Removed requirement to use up all compliance instruments before going over 20%
- Can apply to meet up to 60% of obligation with CCI credits. DEQ may approve if determines:
  - Source has a demonstrated community benefit agreement and
  - Source is compliant with the Climate Protection Program
  - Removed prevailing wage concept; few wage and DEQ violations concept

Community benefit agreement

“Community benefit agreement” means a written and executed agreement between a source and its local community

(a) The local community must be represented by a local government or a coalition of community groups that represent people who live or work in proximity to the source; and

(b) The agreement must provide benefits that mitigate the harmful impact of air emissions on the local community in which the source is located including such items as source-provided amenities, impact mitigations, community investments, or a community workforce agreement.

Discussion questions - CCI credits

- Do the draft rules balance providing more compliance options for sources while reducing emissions and supporting equitable community outcomes?

- What should DEQ consider if we were to propose a second option for a source to meet more than 30% of its compliance obligation with CCI credits?

10-minute break

- Be back 2:40 p.m.

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Applicability and cessation (rules 0110 and 0130)

- Source must exceed 15,000 MTCO2e emissions/year for two years instead of one to become a designated EITE or DNG source
- Cessation period reduced from six years to four years
  - Cessation can occur if emissions are zero each year
  - Cessation can occur if emissions are below 15,000 MTCO2e emissions each year
    - Currently source may apply to stop being an EITE or DNG source
    - Proposing that DEQ may also determine source is no longer an EITE or DNG source

Clarifications (0020, 0110, 8110, 9000)

- Define product, production, and production unit. Production measurements can include processes such as wafer passes.
- Clarify the definition of DNG source excludes being an EITE source. If a source is an EITE, it is not a DNG.
- DEQ may adjust CPP permitting deadlines
- Language clarifications and reduction table update

Discussion

- Do you have any comments or questions about these proposed rule changes?

Enforcement Procedure and Civil Penalties

- OAR 340-012 is Division 12, DEQ's enforcement rules

- Economic Benefit = financial benefits resulting from the violation
  - A factor considered in all DEQ enforcement penalties
  - Meant to level the playing field between entities that comply and entities that don't
  - State law requires DEQ to consider this (ORS 468.130(2)(h))
  - Built into DEQ's Division 12 penalty formula

Economic Benefit Rule

This rulemaking proposes an update to Economic Benefit Rule, OAR 340-012-0150

- Allows DEQ to use Community Climate Investment credit contribution amount or price of compliance instruments traded to calculate Economic Benefit for Climate Protection Program violations
- This would be additional to DEQ's ability to issue civil penalties for violations

Greenhouse Gas Reporting Program

- OAR 340-215 is Division 215, Oregon Greenhouse Gas Reporting Program

Draft rules

- Require a written production data monitoring plan; similar to emissions data monitoring plan
- Add production data to emissions data reports for EITE/DNG

Third-Party Verification

- OAR 340-272 is Division 272, Third Party Verification

Draft rules

- Add production data to review
- Add in provisions in material misstatement; restructured the rule – the new section 340-272-0460(2) explains the assessments of material misstatements of EITE/DNG production data

Discussion- other rules

- Do you have any comments or proposed edits to the changes to divisions 12, 215, and 272?

Review of fiscal impact statement

- Committee reviews statement and provides recommendations on:
  - Draft rules fiscal impact
  - Extent of that impact
  - Any significant adverse effect on small businesses
  - How DEQ can mitigate impacts

- DEQ:
  - Documents and considers committee input
  - DEQ may revise based on committee input and public comments

Review of racial equity statement and environmental justice considerations

- Requesting committee input on how these proposed rules and amendments would affect racial equity
- Requesting committee input on how environmental justice considerations might be impacted by these proposed rules and amendments
- DEQ will document and consider committee input
- DEQ may revise based on committee input and public comment

Fiscal impact statement-regulated entities

- Compares the fiscal impact of the proposed EITE rules and rule amendments **to the current program rules** for EITE and DNG sources
- DEQ believes there will be a fiscal impact to proposed EITE rules and rule amendments
  - Very likely cost savings for EITE and DNG sources, especially those growing
  - Potential cost increases for fuel suppliers (natural gas utilities and liquid fuels and propane suppliers)

Changes in the fiscal impact statement

- Updated to reflect new rules draft
- Added in impacts of changes to Divisions 12, 215, 272
- Added potential cost of third-party verification of production data
- Added cost to the state of tracking production data
- Noted housing cost inputs may decrease due to these rules

Changes in the racial equity impact statement and environmental justice considerations

- Added in potential public health benefits forgone under this draft
- Noted rules may mean fewer emissions reductions in East Portland, Lane County, and low-income rural areas

Estimated increased administration, permitting, reporting, and recordkeeping costs

Activity	Estimated unit cost ($/hour)	Estimated units (hours)	Estimated cost	Cost recurrence
Production recordkeeping and reporting	$100	1-10	$100-$1,000	Per year
Third-party verification of production data	$200	10-40	$2,000-$8,000	Per year
Emissions intensity benchmark adoption/request for adjustment	$200	25-150	$5,000-$30,000	One time or if product or process benchmarks change
Reduction schedule adjustment request	$250	150-300	$37,500-$75,000	As needed

Discussion – impact statements

- What are your comments on the draft fiscal impact statement?

- What are your comments on the draft racial equity impact statement and environmental justice considerations?

Next steps

- Send comments by **Nov. ~~4, 2026~~** to cpp.eite@deq.oregon.gov

note: after the meeting the comment deadline was extended to Nov. 16, 2026

- Public notice planned for December 9



Rulemaking resources

EITE rulemaking web page

Department of Environmental Quality : Climate Protection Program EITE : Rulemaking at DEQ : State of Oregon

Rulemaking contact Evan Manvel at cpp.eite@deq.oregon.gov

Notifications Subscribe to DEQ GovDelivery

Climate Protection Program web page

Department of Environmental Quality : Climate Protection Program : Climate Protection Program : State of Oregon

Title VI and alternate formats

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