



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:

<u>Advisory committee members</u>	<u>Member substitutes/additional representation</u>
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	<u>Others in attendance</u>
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 stable 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