



# 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 Office of Sustainable Development	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	<u>Member substitutes and additional representation</u>
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	<u>Guest presenters</u>
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	<u>Others in attendance</u>
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 (SF6) emissions and may address SF6 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 SF6 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.

### Discussion highlights

- 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**