



Oregon Greenhouse Gas Reporting Advisory Committee Draft Report

**This is a draft document for review
by the Oregon Greenhouse Gas Reporting
Advisory Committee
April 1, 2010**

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

Table of Contents

Table of Contents

Introduction.....	2
Background.....	2
Advisory Committee and Stakeholder Involvement Process.....	3
Summary of Recommendations for Reporting form Power Suppliers and Fuel Distributors	6
Appendix A: Oregon Greenhouse Gas Reporting Advisory Committee Meeting Notes, September 23, 2009	8
Appendix B: Oregon Greenhouse Gas Reporting Advisory Committee Meeting Notes, October 19, 2009.....	14
Appendix C: Oregon Greenhouse Gas Reporting Advisory Committee Meeting Notes, November 16, 2009.....	22

Meeting notes will be added to this draft report for the committee’s January and April meetings:

Appendix D: Oregon Greenhouse Gas Reporting Advisory Committee Meeting Notes, January 21, 2010	#
Appendix E: Oregon Greenhouse Gas Reporting Advisory Committee Meeting Notes, April 1, 2010	#

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 September 2009 to provide input on amendments to the reporting rules to implement recent legislation and update the program. This report serves as a record of committee recommendations to EQC.

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, a partnership of seven western states and four Canadian provinces, which commits partners to participate in a multi-state reporting and verification system (The Climate Registry). In addition, Governor Kulongoski asked EQC to consider adopting greenhouse gas reporting rules.

The Oregon Greenhouse Gas Reporting Advisory Committee helped develop the recommendation for the initial set of reporting rules, which 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. Greenhouse gas reporting is crucial for Oregon to track and evaluate its greenhouse gas emissions. Reporting will help us understand Oregon's 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.

In 2009, DEQ reconvened the committee and began work on a rulemaking proposal to update Oregon's greenhouse gas reporting program and implement legislation. The 2009 Oregon Legislature passed Senate Bill 38, authorizing EQC to create reporting requirements for power suppliers and fuel distributors, which account for about two thirds of total emissions for the state. The Legislature also passed Senate Bill 103 and DEQ's budget, authorizing EQC to create fees to fund the program and fill two legislatively approved staff positions. In 2009, EPA released 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, it's important to continue Oregon's reporting program because Oregon's program has a lower emissions threshold than the federal rule and will provide DEQ with more comprehensive information about Oregon's emissions than the federal program is able to do at this time.

DEQ's proposal would enable DEQ to collect more comprehensive emissions data, fund the program, avoid redundant requirements and assure consistency in reporting by aligning Oregon's reporting requirements with federal rules. While EQC is authorized to create fees for sources subject to the reporting rules established in 2008, it lacks authority to create fees for power suppliers and fuel distributors added by Senate Bill 38. Senate Bill 38 asked 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 charged with providing recommendations to EQC on issues related to amending the greenhouse gas reporting rules and updating the reporting program. The objectives of the committee were to identify, discuss and make recommendations on program requirements and appropriate issues before rulemaking begins,

The committee addressed criteria for reporting of greenhouse gases from power suppliers and fuel distributors to DEQ. The scope includes 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 and determine level of confidentiality of certain data elements where appropriate.

The committee addressed how to streamline reporting for power suppliers and fuel distributors in accordance with provisions in Senate Bill 38.

The committee addressed fees that would be paid by reporting facilities. This includes year one fees for sources subject to the existing rules and future years' fees for sources subject to the revised rules, including whether there is a need to create fees for power suppliers and fuel distributors.

In addition, the committee addressed how to best incorporate federal reporting rules into Oregon's rules.

The committee reviewed the draft Fiscal Economic Impact Statement for DEQ's draft proposed rulemaking.

Pursuant to ORS 183.333, DEQ asked the committee to evaluate whether the proposed rules have a fiscal impact, and if so, what the extent of that impact will be. DEQ also asked whether the rules will have a significant adverse impact on small businesses, and if so, recommendations on compliance with ORS 183.540. The committee made the following recommendations regarding fiscal review:

[add recommendations to this draft report]

All meetings were open to the public and included opportunities for public comment. Additionally, citizens who wished to discuss proposals were encouraged to contact DEQ project staff. The rulemaking process will also include an opportunity for public comment on proposed rules prior to rule adoption.

DEQ developed a website and on-line subscription service to notify the public of meetings and provide meeting materials. DEQ staff prepared briefing materials prior to each meeting, and prepared meeting notes that summarize significant issues raised during the 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 issues identified.

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

The advisory committee was made up of citizens, local government representatives, environmental and business interests. Members included:

Mark Reeve, Chair	Reeve Kearns PC
Michael Armstrong	City of Portland Office of Sustainable Development
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 Haagenen	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
Uri Papish	ODEQ, Air Quality Program Manager
Peter Cogswell	Bonneville Power Administration
Diana Enright	Oregon Department of Energy, Assistant Director
Merlyn Hough	Lane Regional Air Protection Agency, Director
Project Staff	
Brandy Albertson	ODEQ, Emission Inventory Analyst
Andrea Curtis	ODEQ, Air Quality Program Specialist
Bill Drumheller	ODOE, Senior Policy Analyst
Maury Galbraith	Public Utility Commission

The Greenhouse Gas Reporting Advisory Committee held five meetings as shown below. DEQ also held workgroup sessions with diesel, gasoline, natural gas, and propane suppliers and electricity stakeholders.

Date	Location ¹	Topics
September 23, 2009	NWR	<ul style="list-style-type: none"> • Project overview: Committee charter, timeline, background information including current reporting rule, the federal reporting rule, WCI's model rule, recent legislation and DEQ's budget • Options for the year one fee schedule
October 19, 2009	HQ	<ul style="list-style-type: none"> • Options for year one 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	<ul style="list-style-type: none"> • Western Climate Initiative reporting requirements for imported power and existing electricity reporting protocol • 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	<ul style="list-style-type: none"> • Updates on project timeline, rulemaking for year one fees and workgroup sessions • Straw proposal: Reporting requirements for power suppliers and fuel distributors • Future years' fees
April 1, 2010	NWR	<ul style="list-style-type: none"> • Requirements of Administrative Procedures Act • Draft rules • Draft fiscal impacts of proposal • Draft committee report to EQC

¹NWR: DEQ's northwest region, conference room A/B, 4th fl., 2020 SW 4th Avenue, Portland, OR 97201.

HQ: DEQ's headquarters, conference room EQC-A, 10th fl., 811 SW 6th Avenue, Portland, OR 97204.

Summary of Recommendations

The committee made the following recommendations on fees:

[add recommendations to this draft report]

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

Reporting parties	Approximate number of entities	Requirements
Gasoline, ethanol and diesels		
<ul style="list-style-type: none"> Fuel dealers licensed with the state of Oregon Persons who import, sell or distribute fuels for use in Oregon not subject to ODOT gas tax and not sold or distributed through a licensed fuel dealer. (This is a provision to capture fuels not reported by licensed fuel dealers; we may need to establish a threshold) 	<p>155</p> <p>Unknown</p>	<ul style="list-style-type: none"> Parties must comply beginning in 2011 through: <ul style="list-style-type: none"> ➤ Annual registration and reporting to DEQ; or ➤ Submission of the party's gas tax report to the Oregon Department of Transportation if the report contains all information required by DEQ. <ul style="list-style-type: none"> ○ ODOT is proposing to revise its gas tax reporting form to collect all information required by DEQ from licensed fuel dealers for greenhouse gas reporting (e.g. non-taxed gasoline and diesel quantities; annual summaries). ○ ODOT is proposing to upgrade its gas tax reporting database and may electronically collect all information required by DEQ from licensed fuel dealers for greenhouse gas reporting. In the interim, DEQ may require concurrent reporting from dealers if necessary. Parties must report for the previous calendar year: <ul style="list-style-type: none"> ➤ Fuel quantities sold and distributed in Oregon by fuel type. <ul style="list-style-type: none"> ○ DEQ may defer reporting of diesel fuels sold and distributed in 2010 if it determines that parties don't have adequate records to report diesel fuel. Parties must report on forms approved by DEQ
Natural Gas		
Suppliers of natural gas	3	<ul style="list-style-type: none"> Parties must annually register and report beginning in 2011 Parties must report for the previous calendar year: <ul style="list-style-type: none"> ➤ Natural gas quantities sold and distributed for use in Oregon Parties must report on forms approved by DEQ Parties must report according to protocols approved by DEQ
Liquid petroleum gas and natural gas liquids		
Wholesalers of liquefied petroleum gases and natural gas liquids	10	<ul style="list-style-type: none"> Parties must annually register and report beginning in 2011 Parties must report for the previous calendar year: <ul style="list-style-type: none"> ➤ Quantities of liquid petroleum gases and natural gas liquids sold and distributed in Oregon by fuel type Parties must report on forms approved by DEQ

Reporting parties	Approximate number of entities	Requirements
Electricity		
<ul style="list-style-type: none"> • Investor owned utilities • Electricity service suppliers 	<p>3</p> <p>5</p>	<ul style="list-style-type: none"> • Parties must annually register and report beginning in 2011 • Parties must report for the previous calendar year regarding electricity imported, sold, allocated or distributed for use in Oregon: <ul style="list-style-type: none"> ➤ Greenhouse gas emissions emitted from generating facilities owned or operated by the party ➤ Quantities of electricity purchased by the party in megawatt hours (MWh) <ul style="list-style-type: none"> ○ Report quantities by seller (if known) and originating fuel types (if known) ➤ Quantities of sulfur hexafluoride (SF₆) emitted from transmission equipment owned or operated by the party <ul style="list-style-type: none"> ○ Report using emissions factors adopted by EQC ○ A multi-jurisdictional company may rely upon cost allocation methodology approved by the Oregon Public Utility Commission for reporting emissions allocated in Oregon ➤ Greenhouse gas emissions attributable to total energy losses from electricity transmission and distribution equipment owned or operated by the party <ul style="list-style-type: none"> ○ Report using emissions factors adopted by the Environmental Quality Commission • Parties must report on forms approved by DEQ • Parties must report according to protocols approved by DEQ
<ul style="list-style-type: none"> • Electric Coops • People's Utility Districts • Municipal Electric Utilities 	<p>19</p> <p>6</p> <p>13</p>	<ul style="list-style-type: none"> • Parties must comply beginning in 2011 through: <ul style="list-style-type: none"> ➤ Annual registration and reporting to DEQ; or ➤ Submission of a report prepared by a third-party. <ul style="list-style-type: none"> ○ A report for electricity purchased from BPA prepared by a third-party may include information for more than one consumer owned utility, but must include all information required by DEQ for each individual utility. • Parties must report for the previous calendar year regarding electricity imported, sold, allocated or distributed for use in Oregon: <ul style="list-style-type: none"> ➤ Greenhouse gas emissions emitted from generating facilities owned or operated by the party ➤ Quantities of electricity (in MWh) purchased by the party from BPA <ul style="list-style-type: none"> ○ Report quantities by the party's contract types with BPA and, if known, the percentage of each fuel or energy type used to produce electricity purchased under each contract type ➤ Quantities of electricity (in MWh) purchased by the party from suppliers other than BPA <ul style="list-style-type: none"> ○ Report quantities by seller (if known) and originating fuel types (if known) • Parties must report on forms approved by DEQ • Parties must report according to protocols approved by DEQ

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:

<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

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

<u>Advisory committee members</u>	<u>Member substitutes and additional representation</u>
Mark Reeve, Chair - Reeve Kearns PC	Julie Flint - Oregon People’s Utility District Association; Oregon Petroleum Association
Michael Armstrong - City of Portland Office of Sustainable Development	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	<u>Guest presenters:</u>
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	<u>Others in attendance</u>
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 surprise 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 CO₂ 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, gas 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 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