

2023 Climate Rulemaking Advisory Committee Meeting 3

June 27, 2023

Agenda

Time	Topic
10 a.m.	Welcome attendees; review agenda
10:05 a.m.	Review introductions , rulemaking timeline, discussion rules and guidelines
10:10 a.m.	Review and discuss proposed clarifications for reporting by liquid fuel suppliers under GHG Reporting Program
10:45 a.m.	Review and discuss proposed Climate Protection Program changes for non-natural gas (liquid fuels and propane) fuel suppliers
12:15 p.m.	Lunch
1:15 p.m.	Public comment period
2:15 p.m.	Recap proposed rule changes for Climate Protection Program
2:30 p.m.	Recap all proposed changes for GHG Reporting Program and Third-Party Verification
3 p.m.	Discuss fiscal impact and racial equity statement for Climate 2023 rulemaking
3:55 p.m.	Next steps and wrap up
4 p.m.	Adjourn meeting

Zoom participation tips

Thank you for joining us today!

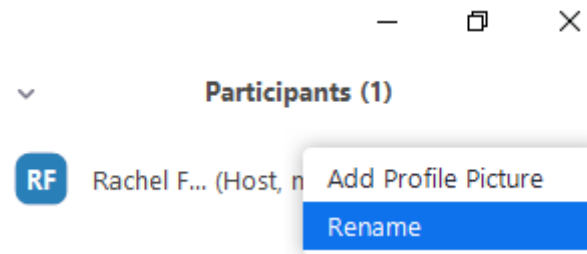
- The meeting is being recorded.
- Please join audio by either phone or computer, not both.
- RAC members join as panelists with audio and video enabled.
- Members of the public have audio and video enabled while giving comment.
- For immediate questions or technical support, please email Climate.2023@DEQ.oregon.gov.

How to rename and add affiliation

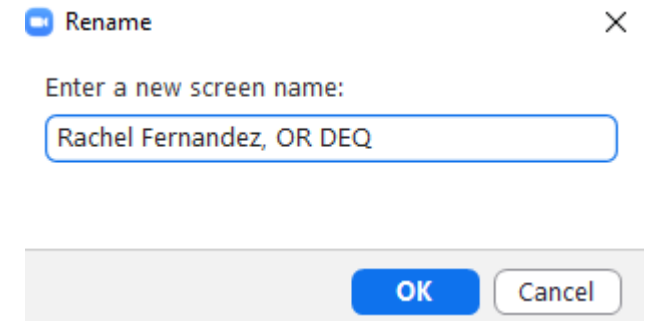
1. Hover on your name in the participation pane.



2. Right click on Rename.



3. Add your name, affiliation, pronouns (if desired)



Office of Greenhouse Gas Program staff

Colin McConnaha

Manager, Office of Greenhouse Gas Programs

Nicole Singh

Senior Climate Policy Advisor

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GHG Reporting Program Manager

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Fuels Sector Reporting Specialist

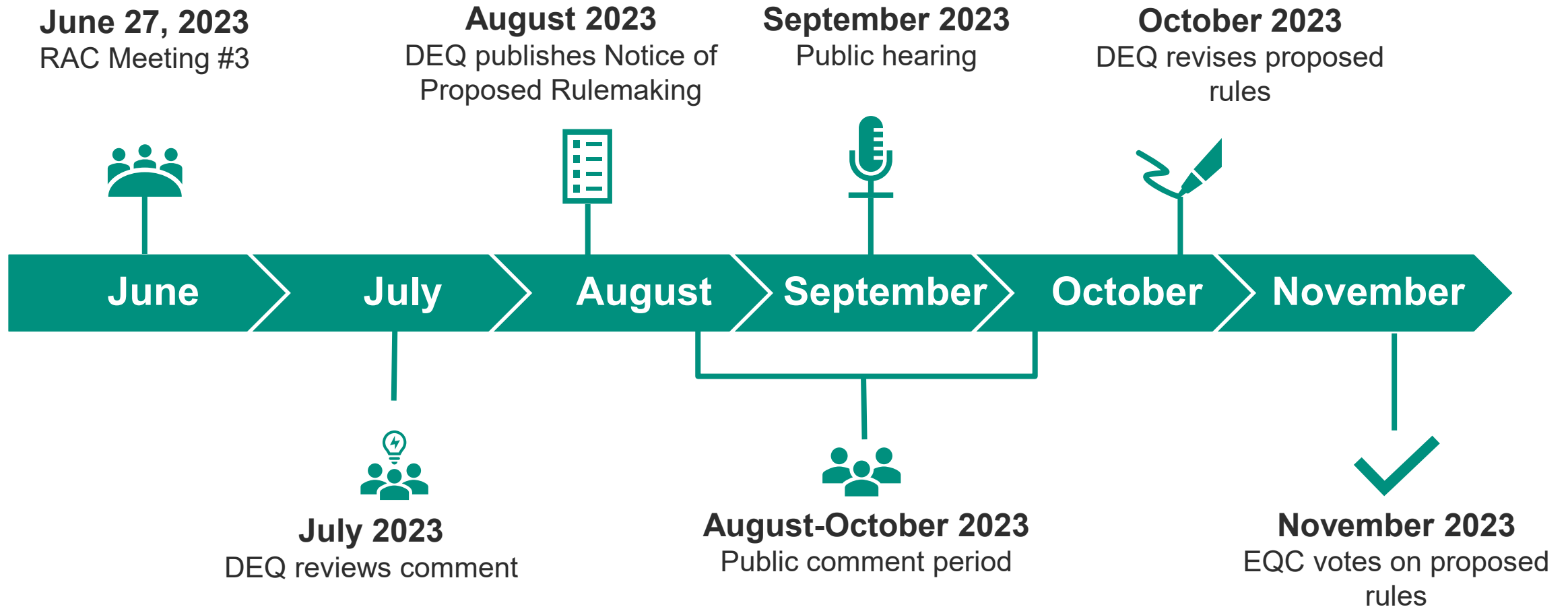
Liz Hardee

Third Party Verification Specialist

Climate 2023 Advisory Committee

- Ash Grove Cement Company
- Coalition for Renewable Natural Gas
- Green Energy Institute (Lewis and Clark)
- HF Sinclair
- Northwest & Intermountain Power Producers Coalition
- Northwest Natural
- Oregon Environmental Council
- Oregon Fuels Association
- PacifiCorp
- Renewable Hydrogen Alliance
- Shell Trading US Company
- Space Age
- Trinity Consultants
- Western States Petroleum Association

2023 Climate Rulemaking Timeline



Committee Discussion Guidelines

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

Public comment and engagement

- Public comment welcome
- Immediately follows lunch break
- Written comments requested by **July 14, 2023**
 - Climate.2023@DEQ.oregon.gov



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Division 215: Liquid fuel and propane suppliers rule amendments

Division 215: Liquid fuel and propane supplier reporting

Who is required to report?

Oregon Position Holders

Report the volume of fuel owned and dispersed from a terminal in Oregon

Fuel Importers

Report volume and type of fuel imported into Oregon.

Exclude fuel imported and subsequently stored at an Oregon terminal

In-state Fuel Producers

Report type and volume of fuel produced in Oregon

Exclude fuel produced and subsequently stored at an Oregon terminal not co-located with production facility

Exclude any quantity of fuel that is documented as exported out of Oregon



Division 215: Refining of definitions 340-215-0020

* Blue text indicates proposed amendments

“**Related entity**” means any direct **or indirect** parent company, direct **or indirect subsidiary**, company **that shares ownership of a direct or indirect subsidiary, or company** under **full or partial** common ownership or control.

“**Position holder**” means any person that has an ownership interest in a specific amount of fuel in the inventory of a terminal **as reflected in the records of the terminal** operator **or a terminal operator that owns fuel in its terminal**. This does not include inventory held outside of a terminal, retail establishments, or other fuel suppliers not holding inventory at a fuel terminal.

“**Terminal**” means a fuel storage and distribution facility that is supplied by pipeline or vessel, or a **facility** collocated where the fuel is produced and stored, and from which fuel may be removed at a rack. **In-state fuel production facilities that have distribution equipment that allow them to distribute directly to retail sites or end users meet the definition of a terminal.**

Division 215: Clarification of reporting requirements

Section 340-215-0110(3) amendments clarify reporting requirements for the following situations:

- Position holder reporting
- When in-state producers must report as a position holder
- When fuel is imported outside the bulk system and subsequently brought to a terminal in Oregon
- When transfers occur between terminals in Oregon
- When title transfers occur within the terminal
- Accounting for and documenting exports

Division 215: Reporting exported fuel

Definition (340-215-0010)

To “Export” means to have ownership title to fuel from locations within Oregon at the time it is transported outside of the state by any means of transport, other than in the fuel tank of a vehicle for the purpose of propelling the vehicle.

Recordkeeping and documentation of exports (340-215-0042(7))

- Must retain records for exported products.
- Records must demonstrate delivery to a final destination outside Oregon
- Records must indicate the amount & type delivered, delivery date and the state the fuel was delivered

Reporting of exports (340-215-0110(3)(d))

- Exported volumes must be excluded based on documentation that meets the requirements of this division
- Regulated entities must report all volumes of fuel imported or dispensed from a position holder in Oregon that are not documented as exported

New - Accounting and notification requirements: 340-215-0110(4)

Division 215: Accounting and notification of exports

Proposed rules in 340-215-0110(4) are intended to clarify accounting and propose new notification requirements related to documenting and reporting exported fuel:

Fuel suppliers exporting fuel dispensed from a terminal in Oregon (each an “exporter”) must notify the position holder owning title to that fuel as it was dispensed if the product transfer documents issued at the terminal do not accurately reflect the state where the fuel was ultimately delivered.

The notification must:

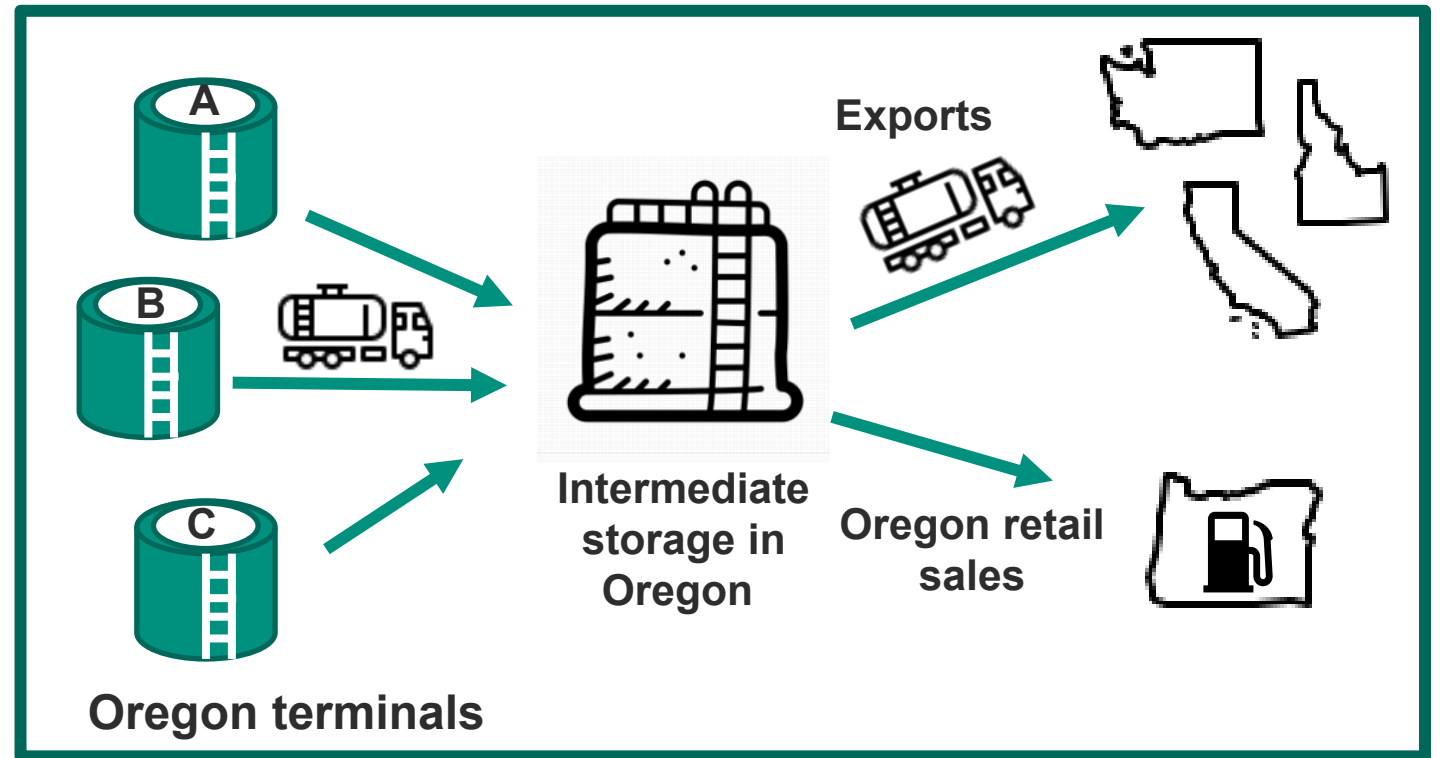
- Occur 30 calendar days prior to the reporting deadline; and
- Include fuel types, volumes and delivery destination, based on documentation;



Division 215: Accounting and notification of exports

Section 340-215-0110(4)(b) proposed rules to address accounting, reporting and notification of exports when:

1. Fuel is delivered from the terminal to an intermediate storage location and then exported from that location
2. Commingled with the same type of fuel
3. Purchased from multiple position holders



Division 215: Accounting and notification of exports

DEQ is proposing exporters inform position holders of exports & document adjustments using the following:

- Calculate the total exports from that intermediate storage tank by calendar quarter and fully tabulate which position holders it purchased fuel from and that was delivered to intermediate storage for that quarter.
- Apportion the exported gallons to the position holders based on the percentage of fuel that the exporter purchased from each of the position holders in the calendar quarter.
- Provide written documentation to the position holder that it used this method to apportion the exports.

A fuel supplier exported **75 gallons** of gasoline in the first quarter of the year from intermediate storage in Oregon. The intermediate storage held gas purchased from **3 different position holders** during the quarter.

Position holder	Volume comingled in storage	Apportioned exported volumes
A	100	25
B	50	12.5
C	150	37.5
Total	300	75

Division 215 Discussion

Clarifying questions or comments?

Concerns or comments on the definitions?

Ways to improve the reporting of exports?

Other situations that need to be addressed in the rules?



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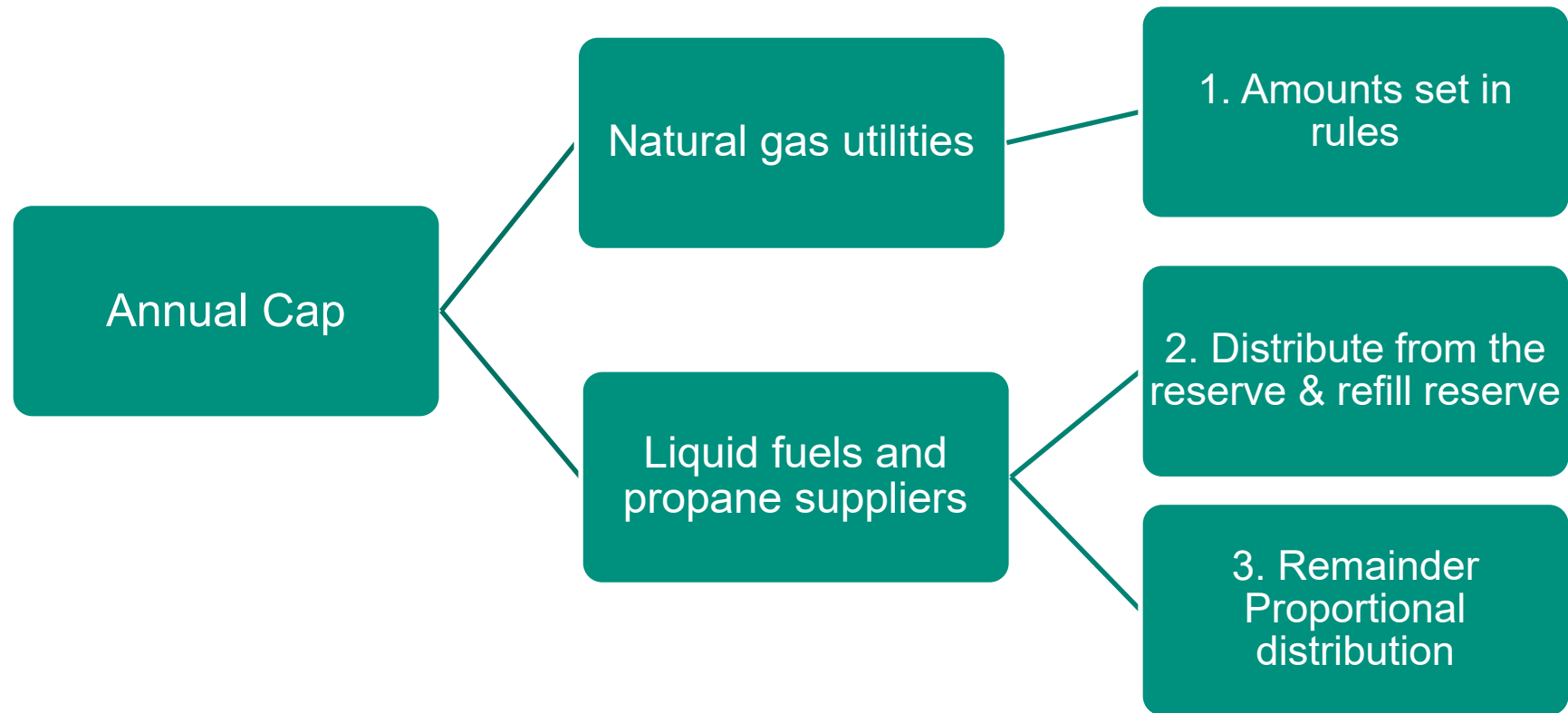
Climate Protection Program: Non-natural gas fuel suppliers rule amendments

Considering Changes To

- Better align resources and timelines across programs
- More quickly incorporate new covered fuel suppliers into distribution of compliance instruments
 - Annual compliance distribution methodology
 - Distributions from compliance instrument reserve
 - Timing of compliance instrument distributions

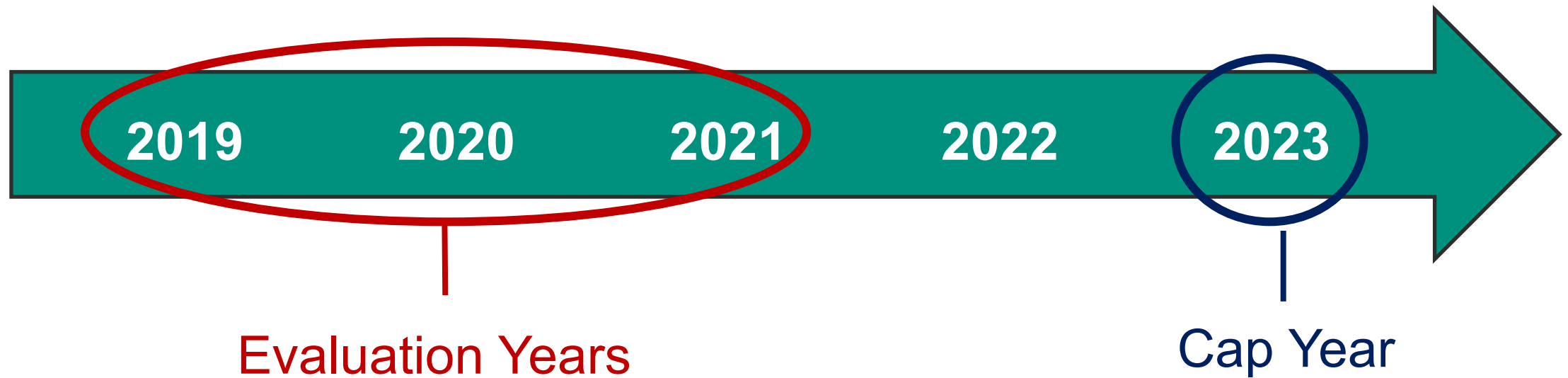


Annual Compliance Instrument Distribution



2023 Compliance Instrument Distribution

Current

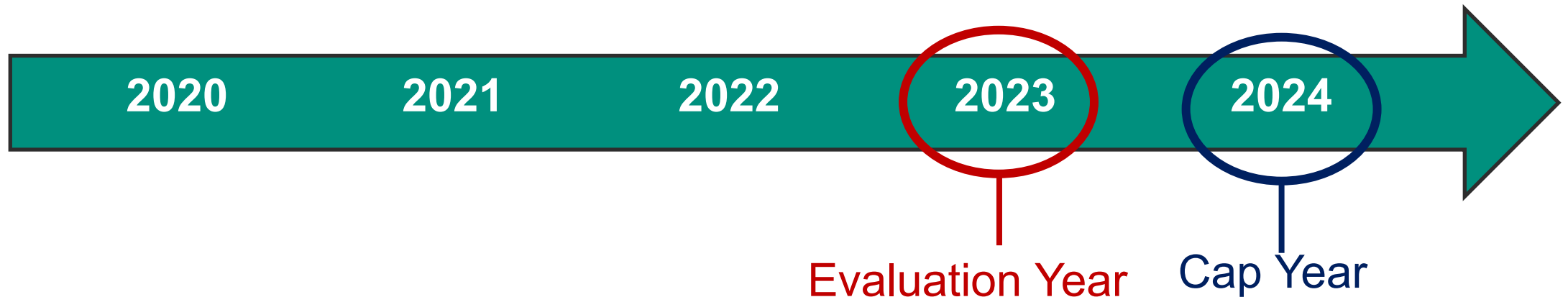


Recent Emissions Data: Why the Gap?



Proposed Compliance Instrument Distribution

- Move annual distribution dates from March 31 to June 30
- Change evaluation period from 3 years to 1 year
- Use most recent self-reported emissions data/previous year



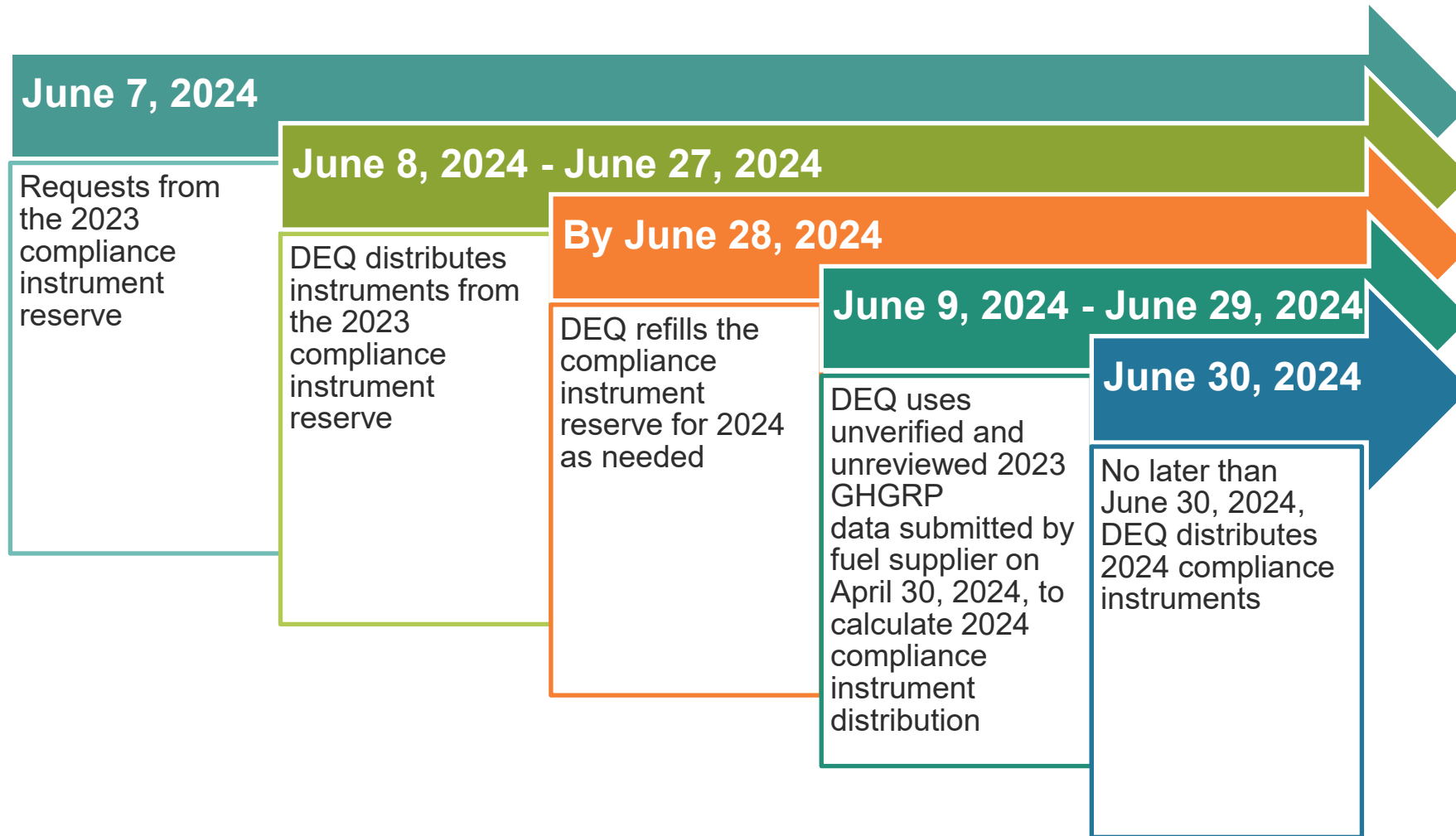
Using Self-Reported Emissions Data

- Emissions data from previous year will contain errors that will be corrected later
- DEQ internal auditing and third-party verification process would not be complete before distribution
- Errors in reporting will result in distribution of too few or too many compliance instruments
- Errors will affect all covered fuel suppliers in the distribution, not only those with reporting errors

Compliance Instrument Reserve

- Compliance instruments set aside for new covered fuel suppliers
 - Might be fuel suppliers already reporting emissions, but emissions have grown above the applicability threshold
 - Might be new entrants
 - Did not operate during, or only part of the evaluation period

Timeline: Proposed Compliance Instrument Distribution



Compliance Instrument Reserve Amendments

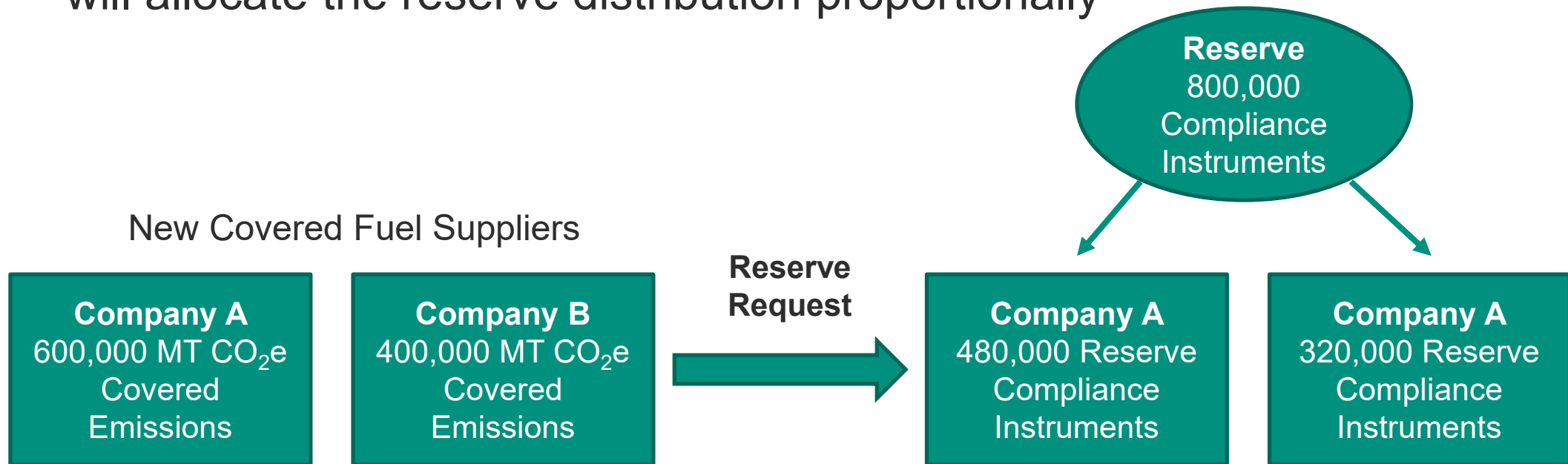
Remove cap on instruments a company can receive

- Each covered fuel supplier is currently allowed a maximum distribution of 300,000 compliance instruments from the reserve each year
- Maximum distribution would be limited to the lesser of total covered emissions or the total available reserve amount

Compliance Instrument Reserve Amendments

Reserve distribution methodology

- If covered emissions from fuel suppliers with approved reserve requests are greater than the total number of compliance instruments in the reserve, DEQ will allocate the reserve distribution proportionally



Compliance Instrument Reserve Amendments

New covered fuel supplier eligibility for reserve distribution

- New covered fuel supplier related to an existing CPP covered fuel supplier would not be eligible for a reserve distribution.

Compliance Instrument Reserve Amendments

Example

- Covered Fuel Supplier A is a regulated entity and received a distribution of compliance instruments during the 2023 distribution.
- Covered Fuel Supplier A purchases a non-covered fuel supplier in 2023.
 - The purchase makes the two companies related entities and the newly acquired company becomes Covered Fuel Supplier B.
- Covered Fuel Supplier B becomes covered in 2023 and has a compliance obligation for covered emissions reported in 2023.
- Currently, Covered Fuel Supplier B could apply for a reserve distribution for 2023 because they have covered emissions not included in the 2023 distribution.
- Under the proposed amendment, Covered Fuel Supplier B would not be eligible for a reserve distribution in 2023.

True-up annual compliance instrument distribution

- Adjustment of compliance instrument distribution in the following year to account for over/under distributions
 - Distributions for 2024 recalculated using 2023 verified data, adjustments applied to 2025 distribution
- Adjustment of compliance instrument distribution to account for over/under distributions over a period of multiple years
 - Distributions for 2024 and 2025 recalculated using 2023 and 2024 verified data, adjustments applied to 2026 distributions

Holding Limits

- DEQ distributes 100% of the compliance instruments directly to covered fuel suppliers
- Only covered fuel suppliers can trade and hold compliance instruments.
- Other programs use auction limits and holding limits
 - Entity can purchase no more than a certain percentage of allowances available at each auction
 - Each market participant is limited to holding a certain number of allowances at a specified time

Holding Limits

- Should DEQ consider holding limits for compliance instruments?
- Could be determined by
 - Specific number of compliance instruments,
 - Percent of total compliance instruments in circulation, or
 - Percent of an entity's compliance obligation
- Could be applied
 - Annually during the compliance instrument distribution, or
 - Only in compliance years

Comments and Discussion

- Comments and questions on the proposed annual compliance instrument distribution methodology?
- Comments and questions on the new proposed timeline for compliance instrument distributions (annual and reserve)?
- Comments and questions on the proposed changes to the reserve?



Comments and Discussion

- Should DEQ consider a true-up process for the annual compliance instrument distribution when verified data is available? If so, how?
- Should DEQ implement a holding limit for compliance instruments?
- If so, how should the holding limit be calculated and when should it be applied?



Lunch Break

The meeting will resume at 1 p.m.


For Zoom technical issues, email Climate.2023@DEQ.oregon.gov

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Public Comment

We are taking public comments at this time.

Raise your hand  or press *9 on your phone to be called to give oral comment.

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

You may also send written comment on today's RAC discussion topics by July 14, 2023 to Climate.2023@DEQ.oregon.gov.

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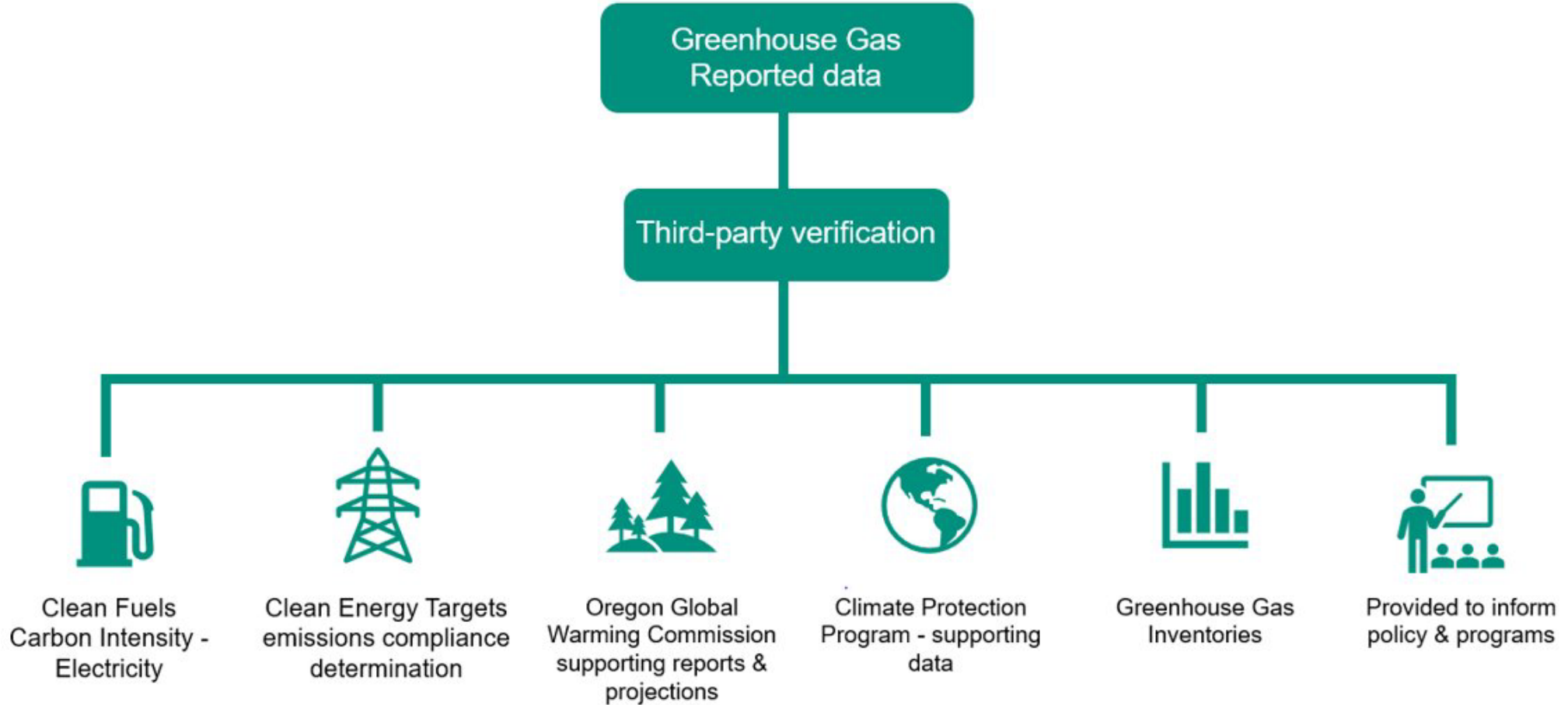
Recap proposed rule changes for Climate Protection Program

- Best Available Emissions Reduction (BAER)
 - Explicitly list types of facility modifications that may require BAER OAR 340-271-0110(5)(a)(C)
 - Type 2 Notice of Intent to Construct / Notice of Approval Application
 - Permit modifications
 - Clarify what happens if a mod not required to go through BAER
 - Facility may still be called in later if actuals > 25,000 OAR 340-271-0310(1)(c)

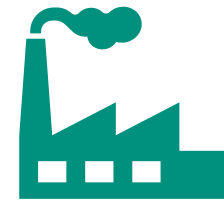
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Recap Division 215 proposed amendments



Recap Division 215 Proposed Amendments: Stationary Sources (340-215-0105)



- Clarify exemptions and reporting for stationary sources that are in-state producers
- Clarify definition of Carbon Dioxide Suppliers and reporting requirements
- Modify foam blowing emissions calculation to align with current accounting for this manufacturing process
- Clarify and introduce additional reporting requirements for biomethane and hydrogen
- Require all entities subject to Climate Protection Program to obtain third-party verification, regardless of emissions reported

Recap Division 215 Proposed Amendments: Liquid Fuel and Propane Suppliers (320-215-0110)



- Clarify definition of position holder
- Align definition of related entities across divisions
 - Also limit the reporting of related entities to this sector
- Amend language to address in-state transfers within the bulk system
- Add recordkeeping and notification requirements related to the accounting of exported fuel
- Require all entities subject to Climate Protection Program to obtain third-party verification, regardless of emissions reported
- Expand GHG Data Monitoring plans to all liquid fuel and propane suppliers required to have reports third party verified

Recap Division 215 Proposed Amendments: Natural Gas Suppliers (340-215-0115)



- Clarify reporting for in-state producers of natural gas and biomethane
- Clarify and include additional reporting requirements for the reporting of biomethane and hydrogen
- Expand GHG Data Monitoring Plans to all natural gas suppliers required to have reports third party verified

Recap Division 215 Proposed Amendments: Electricity Suppliers (340-215-0120)



- Amend multijurisdictional emissions calculation to allow alignment with the current cost-allocation methodology approved by Public Utility Commission
- Require all entities subject to Clean Energy Targets to obtain third-party verification, regardless of emissions reported
- Expand GHG Data Monitoring Plans and added requirements to these plans for electricity suppliers required to have reports third party verified

Recap Division 215 Proposed Amendments: Biogas, Biomethane and Hydrogen Reporting

- Refine the definition of biomethane
- Increase the information required for reporting these fuel types
- Clarify contractual delivery requirements and use of “Book and Claim”
- Require GHG environmental attributes associated with reported gas to be retained & prohibiting others from making claims
- Align delivery requirements with how natural gas is delivered to Oregon: must be directly delivered or injected into a pipeline connected to Oregon
- Limit vintage - gas must be injected within the same year it is reported/claimed

Recap proposed rule amendments to Division 272

Third-Party Verification Program

- Update definition of “Related entity” to align with Division 271 and 215
- Allow subcontractors to meet the requirement for lead verifier
- Allow for verification bodies to conduct and submit the conflict of interest form
- Expand applicability to require verification for any entity subject to the Climate Protection Program or Oregon’s Clean Energy Targets
- Address minor clarity edits, typo corrections, and add specificity to rule language

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Introduction:

Fiscal and Economic Impact and Racial Equity Statements

Review of Fiscal and Economic Impact Statement (FEIS)

Committee reviews fiscal impact statement and provides recommendations on:

- Draft rule's fiscal impact
- Extent of that impact,
- Any significant adverse impacts on small businesses, and
- How DEQ can mitigate impacts

DEQ:

- Documents and considers committee input
- May revise based on committee comments for version released for public notice

The FEIS statement aligns with the rules as discussed today and addresses the impacts of the proposed rule amendments for the Climate 2023 Rulemaking.

Fiscal and Economic Impacts by Sector

FEIS: Natural Gas Suppliers

Division 215:

- Potential fiscal and economic impacts to entities reporting biomethane and hydrogen as a result of increased information, attestation, and verification requirements.
- No anticipated fiscal impacts from the amendment to the definition of biomethane for reporting under Division 215.
- Suppliers required to obtain verification services that are not currently maintaining GHG monitoring plans may incur costs associated with developing and maintaining those plans.

FEIS: Natural Gas Suppliers

Division 271

- No significant fiscal impacts for amendments ensuring that emissions from natural gas delivered by a utility, whether combusted or oxidized, are covered emissions for utility
- Proposed 215 amendments generally add additional clarification without changing reporting requirements for biomethane
- DEQ anticipates limited impacts on the availability of biomethane supply
- Generally, no anticipate related fiscal impacts for natural gas utilities regulated by CPP
- Amendments to the definition of biomethane may increase compliance costs for natural gas utilities that intended to purchase and report synthetic methane made with non-biogenic waste carbon dioxide as biomethane under Division 215.

FEIS: Liquid Fuel and Propane Suppliers

Division 215:

- Suppliers required to obtain verification services that are not currently maintaining GHG monitoring plans may incur costs associated with developing and maintaining those plans.
- Amendments to the reporting and documentation of exported fuel products may increase costs for certain fuel suppliers associated with record management, reconciliation, and staff time related to notifying impacted position holders.

Division 271:

- Not changing overall applicability thresholds or the emissions cap
- Do not expect proposed amendments to have different fiscal impacts, **overall**
 - Changing distribution methodology will affect the number of instruments DEQ distributes to each fuel supplier
 - Anticipates some potential negative and positive fiscal impacts to individual fuel suppliers, but overall compliance costs across the regulated companies should remain the same

FEIS: Stationary Sources

Division 215:

- Amendments for stationary sources primarily clarify reporting requirements – no fiscal impacts are anticipated from clarifications
- Some fiscal and economic impacts to stationary sources reporting biogas, biomethane, and hydrogen as a result of increased information, attestation and verification requirements.

Division 216:

- New sources required to obtain a Basic Air Contamination Discharge Permit
 - Expenses for complying with permit conditions, including costs to monitor, keep records, and provide reports to DEQ about air pollution emitted by their facility.
- If required to go through the BAER process expenses related to preparing a BAER assessment and complying with a BAER order.

FEIS: Stationary Sources Fee Analysis

Proposed amendments would not create or change existing fees

Division 216:

Proposed amendments would add a source category and require impacted sources to obtain a Basic Air Contaminant Discharge Permit (OAR 340-216-8010 Table 1, Part A)

- Impacted sources would be subject to existing permitting fees
- Some sources subject to BAER may need to obtain a Notice of Construction or permit modification application and would be subject to those existing fees
- DEQ is not aware of any facilities that would be in this new proposed source category

FEIS: Stationary Sources

Division 271:

- Sources going through the BAER would have costs for preparing the BAER
 - DEQ estimates that preparing a BAER assessment may take approx. 150 hours of facility staff time and/or consultant time. At a rate of \$200 per hour, that would cost \$30,000.
 - After having completed the BAER process, facilities must update their BAER assessment every 5 years afterwards. Costs for updating a BAER assessment are expected to be the same or less than writing a new one.
- Facilities complying with a BAER order may have costs from installation of equipment and to monitor, keep records, and report to DEQ about air pollution emitted by their facility.

FEIS: Electricity Suppliers

Division 215:

- Suppliers required to obtain verification services that are not currently maintaining GHG monitoring plans may incur costs associated with developing and maintaining those plans.
- The technical amendment to the multijurisdictional reporting methodology would not have a fiscal impact for reporting under Division 215.

Division 272:

- Fiscal impacts for Electricity Service Suppliers proposed to be required to procure third party verification

FEIS: Third Party Verifiers and Verification Bodies

Division 272:

- Fiscal impacts to verification bodies are anticipated to be minimal.
- Expanding third party verification to include all entities subject to Clean Energy Targets and those regulated by the Climate Protection Program will add a few new potential clients for verification bodies
- Allowing subcontractors to meet lead verifier requirements for verification bodies may allow more companies to become verification bodies. An increase in the number of verifiers could have a minor impact on prices verification bodies are able to charge for services.

Fiscal and Economic Impacts: Statement of Cost of Compliance

FEIS: State agencies, Local Government, and Public

State Agencies

- DEQ anticipates minimal impacts to the agency related to implementation.
- The proposed amendments may require staff to review some Notices to Construct and proposed permit for BAER implementation.
- Facilities required to obtain Basic ACDP permits because of the proposed new source category would require DEQ staff resources for permit writing, report review, inspections, and enforcement.
- DEQ does not anticipate impacts to other state agencies.

Local Governments

- Local government who own stationary sources subject to Division 215 would experience the same fiscal impacts as other stationary sources.

Public

- The public would not incur any **direct** fiscal impacts
- **Indirect** impacts from cost increases/decreases to fuel suppliers, who may pass these impacts through to consumers

FEIS: Impact to Large Businesses (more than 50 employees)

Based on 2022 GHG RP data, DEQ anticipates that 69 large businesses may be directly impacted by the proposed rule amendments. Large businesses identified include:

- One Electricity Service Supplier, impacted by the expansion of verification requirements.
- 20 large businesses that report biogas, biomethane, or hydrogen, including one natural gas utility and 19 stationary sources.
- 48 large business that may incur costs associated with developing and maintaining GHG data monitoring plans.

FEIS: Small Businesses (50 or fewer employees)

- Based on Oregon Department of Employment data DEQ estimates that 18 small businesses may be directly affected by the amendments. Small businesses identified include:
 - 4 currently approved verification bodies
 - 2 stationary sources currently reporting biogas (No small business currently reports biomethane or hydrogen)
 - 12 liquid fuel suppliers, impacted by new recordkeeping and notification requirements
- DEQ does not anticipate these impacts to small businesses will be significant

FEIS: Questions and Discussion

- Comments or questions on the proposed fiscal impacts for any of the regulated sectors?
- Do the proposed rule amendments have a significant adverse impact on small businesses?
 - Anything additional that DEQ could consider to mitigate any such impacts?
- Anything else DEQ should consider to mitigate any other potential fiscal impacts?



Racial equity statement & EJ

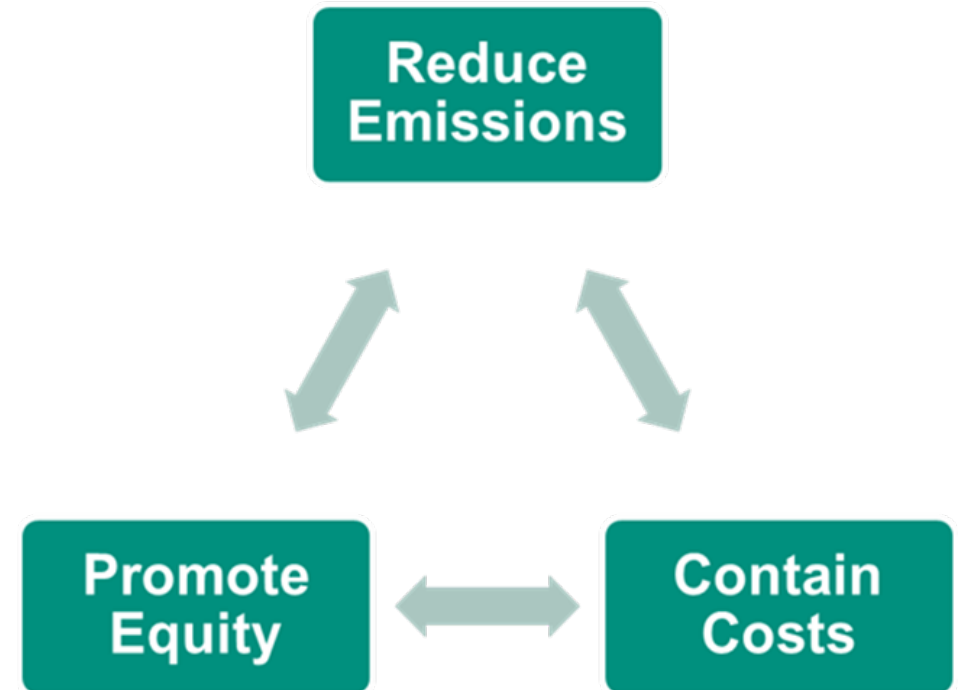
- DEQ is asking for committee and public input on how adoption of these proposed rule amendments will affect racial equity in this state.
- DEQ is also requesting committee and public input on Environmental Justice considerations for the adoption of these proposed amendments.
- DEQ will document and considers committee and public input
- DEQ may revise the statement based on comment for public notice.

Racial equity statement

- DEQ has not identified any significant positive or negative implications for racial equity of proposed rule amendment
- Proposed amendments are expected to improve the implementation of these three climate programs

Climate Protection Program and Racial Equity

- Projected to significantly reduce adverse health impacts
- All studied communities of concerns projected to benefit from program
 - Communities of color and urban low-income communities to benefit the most



Environmental Justice considerations

Climate Protection Program:

- Reduce greenhouse gas emissions
- Achieve co-benefits from other air contaminant reductions
- Enhance public welfare for Oregon communities, particularly environmental justice communities

Environmental Justice considerations



- ↑ Greater pollution exposure
- ↑ Greater impacts of climate change
- ↓ Less representation in public processes
- ↓ Less access to new, clean technologies

Environmental justice communities include communities of color, communities experiencing lower incomes, tribal communities, rural communities, coastal communities, communities with limited and other communities traditionally underrepresented in public processes and adversely harmed by environmental and health hazards, including seniors, youth, and persons with disabilities.

Proposed rule amendments support implementation of Climate Protection Program and Greenhouse Gas Reporting, and Third-Party Verification programs

Racial Equity and EJ Discussion

- Comments or discussion of DEQ's assessment of racial equity impact of proposed rule amendments?
- Other comments or discussion from RAC on racial equity statement or EJ considerations?

Agenda

Time	Topic
10 a.m.	Welcome attendees; review agenda
10:05 a.m.	Review zoom rules, intro staff/RAC, rulemaking timeline, discussion rules and guidelines
10:10 a.m.	Review and discuss proposed clarifications for reporting by liquid fuel suppliers under GHG Reporting Program
10:45 a.m.	Review and discuss proposed Climate Protection Program changes for non-natural gas (liquid fuels and propane) fuel suppliers
12:15 p.m.	Lunch
1:15 p.m.	Public comment period
2:15 p.m.	Recap proposed rule changes for Climate Protection Program
2:30 p.m.	Recap all proposed changes for GHG Reporting Program and Third-Party Verification
3 p.m.	Discuss fiscal impact and racial equity statement for Climate 2023 rulemaking
3:55 p.m.	Next steps and wrap up
4 p.m.	Adjourn meeting

Rulemaking next steps

- Special thanks to our Rulemaking Advisory Committee
- DEQ is accepting written comment on discussion items.
- This presentation with the discussion questions is available on rulemaking website.
- Please submit comments by **Friday, July 14, 2023** to Climate.2023@deq.oregon.gov.
- Notice of Proposed Rulemaking scheduled for mid August.

Rulemaking resources

- Rulemaking web page: [Department of Environmental Quality : Climate 2023 : Rulemaking at DEQ : State of Oregon](#)
- Rulemaking contact: Climate.2023@deq.oregon.gov
- [Sign up for rulemaking notifications via email or text](#)

Thank You

Title VI and alternative formats

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