

Climate Protection Plan Concerns

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1 - The 2050 Goal

The Governor's Executive Order states clearly that the objective for the plan should be: "at least 80% below 1990 levels by 2050." The EO also states: "Agencies shall exercise any and all authority and discretion vested in them by law to help facilitate Oregon's achievement of the GHG emissions reduction goals set forth in paragraph 2 of this Executive Order." Yet, since DEQ has been drafting rules for its Climate Protection Program, we have seen a gradual shift away from the stated goal.

The first problem is that the baseline has shifted from 1990, first to 2010, and now to the average emissions from 2017-2019. This means that the 80% identified in the EO should be adjusted accordingly. To meet the EO charge, the goal should now be 'at least 81.84% below the 2017-2019 average' emissions.

The second problem is that rather than attempt to reduce all emissions within its authority, DEQ has developed a program that covers less than 50% of the emissions under its authority and seems to be assessing success on whether these emissions are reduced 80% yet we have no projections regarding what will happen to the non-covered emissions suggesting that the program will come anywhere meeting the EO goal.

The third problem is that although the EO relies heavily on language identifying reliance on the Best Available Science, we find DEQ developing a program that does not anticipate achieving the goal established by the Best Available Science. This goal is net zero emissions by 2050. In identifying a goal of 'at least 80% below 1990 levels by 2050' the EO provides agencies with the option of seeking what Best Available Science suggests. Yet, in the Climate Protection Program, we see no evidence of acknowledgment of this goal and no effort to meet it.

Q – How does DEQ anticipate achieving the EO goal with such a large percentage of the regulated emissions excluded from the program?

2 - Community Climate Investment Fund

The two main problems with program offsets component, the CCI fund are

- 1) Abundant evidence suggests that, in the past, offset programs have resulted in exacerbated social injustice and have funded projects that are a sham. It is essential that this CCI plan incorporate rules that both protect communities and generate greenhouse gas outcomes that are genuine in meeting the criteria that DEQ identified as critical when the concept of Alternative Compliance Instruments was first introduced. It appears that rather than imposing critical rules, DEQ is developing a program that encourages abuse.
- 2) Throughout the RAC presentations, DEQ has argued that Alternative Compliance Instruments or the Community Climate Investment options would include projects that promote carbon sequestration. The EO charges agencies with promoting carbon sequestration, and Best Available Science, in the form of the 2018 IPCC report, indicates that we need to remove

greenhouse gases from the atmosphere. It therefore seems entirely appropriate that DEQ should include sequestration projects. Yet, with no explanation, we find the rules actually exclude carbon sequestration projects from the acceptable list receiving CCI funding.

Q.i. How does DEQ propose to prevent projects funded through the Community Climate Investment Fund compromising social justice and assure they have greenhouse gas impact integrity?

Q.ii Representatives of many constituencies have urged DEQ to include carbon sequestration among the Community Climate Investment fund options. Please either assure us you will reconsider this exclusion or explain why that exclusion is so important and how DEQ anticipates collaborating with ODF and ODA as they develop carbon sequestration programs requiring financial incentives.

3 - Focus on Combustion Emissions

It is well understood that greenhouse gas emissions resulting from the use of fossil fuels are not restricted to those at the point of combustion. Indeed, we understand well that problems with fossil gas comprise fugitive emissions resulting from its extraction, processing and transmission. Meanwhile, confining emissions assessments to combustion accords a pass to the emissions resulting from the production and distribution of other fuels - such as biofuels, Renewable Natural Gas and Hydrogen. Thus, these fuels are effectively subsidized by the program. Since some fuels have been erroneously defined by statute as 'clean fuels,' the result of this decision is that an unknown quantity of GHG emissions will be unaccounted.

Q. Since fugitive emissions represent such a large proportion of the emissions from fossil gas use, and emissions result from the production of biofuels (including RNG) and Hydrogen, please explain why these emissions are excluded.

4- Stationary Sources

The language of the Executive Order seems quite clear in that it charges (Page Six): "Pursuant to its authority under ORS 468A.265 *et seq.* and other applicable laws, the EQC and DEQ shall take actions necessary to: Cap and Reduce GHG emissions from large stationary sources of GHG emissions,..."

Yet, instead of incorporating stationary sources in the Cap and Reduce component of the program, DEQ has carved them out and proposed imposing on them a 'Best Available Emissions Reduction.' Given the structure of this protocol, covered stationary sources are not stimulated to exhibit any ingenuity but simply rely on the technology that is already available. More seriously, it seems entirely likely that emissions from this sector will actually increase during the coming decades.

We encourage DEQ to promote BAER protocols by including stationary sources within the cap and reduce program and requiring that they install BAER (or have demonstrable plans to do so) before being eligible to invest in CCI credits.

Throughout the discussions, DEQ has identified a leaning towards exempting the electricity sector. This has seemingly been based (a) partly on the legitimate argument that DEQ has no authority to regulate out-of-state entities, (b) partly on the argument that HB2021 would address emissions from this sector, and (c) partly on the unsubstantiated claim that in-state generation would be leaked out-of-state if these facilities were included within the program. Now that HB2021 has passed, all three reasons for exempting in-state generating facilities are obviated. Thus, there remains no justification for not

including fossil gas generation facilities within whatever requirements are imposed on stationary sources.

Q. Allowing stationary sources to employ a BAER approach seems unlikely to stimulate innovative emissions reduction R&D in the state while potentially allowing these sources to increase their emissions. Please explain why all stationary sources (including fossil gas electricity generation facilities) are not included under the cap and reduce requirement and simultaneously required to adopt BAER protocols before buying credits from the Community Climate Investment Fund.

5 - Renewable Natural Gas

It is troubling that the legislature has apparently succumbed to the claim that Renewable Natural Gas is a clean fuel and should be encouraged, to the extent of defining it as a zero emissions fuel. Not only is this argument highly questionable, but - in addition- the evidence suggests that the state simply does not have the capacity to provide the volume of RNG that both DEQ and the industry claim can be achieved. This is of concern because, in repeated presentations, we repeatedly heard that the replacement of fossil gas with RNG in the pipelines would result in substantial emissions reductions. If there simply is not the availability of RNG that is assumed, then - even if we ignore emissions from its manufacture and accept the claim that RNG is clean - the emissions reductions factored into the models are simply bogus.

Q. Even if we accept the dubious premise that RNG is a clean fuel, how does DEQ justify the projections that 50% – 70% of fossil gas can be replaced by RNG when the Department of Energy 2018 report states the state capacity for RNG is only 22% of 2017 fossil gas usage?

6 - Pipeline Owner Exemption

For some reason, 340-271-0110 exempts any emissions from any source owned by a pipeline owner/operator. This exemption seems designed to cater to owners / operators of such facilities as the Jordan Cove LNG export facility and Pacific Connector Pipeline. There is absolutely no justification for such an exemption; it should be removed.

Q. What is the justification for this exclusion and why does it not give a free pass to projects such as the Jordan Cove LNG Export Facility.

7- Compliance Instrument Retirement

We are aware of a couple of counter-intuitive suggestions with regard to unused compliance instruments. One concerns instruments owned by an entity that ceases to be covered by the program, the other concerns excess instruments in the reserve. In both situations, DEQ proposes that such instruments may be distributed among other polluters. Since the entire purpose of the Climate Protection Program is to address Oregon's contribution to atmospheric greenhouse gas concentrations, these options are entirely inappropriate. Rather, the procedure should be to retire unused instruments whenever possible. The notion that such instruments should be distributed to serve other polluters creates the impression that, in the triangle of goals, DEQ has placed 'containing costs' as the top priority rather than reducing GHGs.

Q. Given that the focus of the Climate Protection Program is reducing emissions, what is the justification for even considering distributing unused compliance instruments among polluters rather than retiring them?