



No Free Pass for Dirty Fracked Gas!

Tell Oregon DEQ that Oregon's Top Polluters Should Not Be Exempt From Oregon's Greenhouse Gas Regulations

Testimony Guide for Environmental Quality Commission - Hearings Scheduled for September 22 and September 28.

Pressure is building on Oregon Department of Environmental Quality (DEQ) and the Oregon Environmental Quality Commission (EQC oversees DEQ) to address pollution from Oregon's top greenhouse gas emitters—fracked gas power plants and processing facilities. DEQ published its draft rules, and Oregon DEQ still proposes to exempt Oregon's top six polluters—all large fracked gas power plants—from Oregon's new greenhouse gas regulation program. This move would place the burdens of pollution on communities near these plants. DEQ also proposes other significant loopholes and flexibility for polluters to avoid stringent controls on climate-changing pollution and the other air pollution that comes with it.

People across Oregon must come together to persuade EQC to protect Oregon communities from fossil fuel pollution.

Submitting Comments in Writing: DEQ and EQC are accepting comments right now!

- You can submit detailed email comments to: GHGCR2021@deq.state.or.us
- You can also mail comments to: Oregon DEQ Attn: Nicole Singh 700 NE Multnomah St., Room 600 Portland, OR 97232-4100
- And here is a link to a simple petition, if you'd like to submit a short comment: <https://www.columbiariverkeeper.org/take-action/ghg-or>
- You can read DEQ's public notice and draft rules here (see right column of DEQ's rulemaking web page). DEQ's page will be updated also with links to join online hearings on September 22 and September 28 (see reverse). <https://www.oregon.gov/deq/Regulations/rulemaking/Pages/rghgcr2021.aspx>

Information about DEQ's Hearings

You can find more information here - DEQ's page will be updated also with links to join online hearings in September.

<https://www.oregon.gov/deq/Regulations/rulemaking/Pages/rghgcr2021.aspx>

This is a critical time to speak up and urge Oregon's top regulators to focus on protecting frontline and environmental justice communities, not giving favors to fracked gas polluters.

- Hearing #1 hosted by DEQ Date: Sept. 22, 2021 Time: 4 p.m. – 7 p.m. PT
Location: Meeting to be held remotely. Visit the rulemaking website Greenhouse Gas Emissions Program 2021 for information on how to join the meeting, which will be available by Sept. 8, 2021.
- Hearing #2 hosted by the EQC Date: Sept. 30, 2021 Time: 4 p.m. – 7 p.m. PT
Location: Meeting to be held remotely. Visit the Environmental Quality Commission website for information on how to join the meeting, which will be available by September 16, 2021.

Background Summary:

- Right now EQC is deciding how much greenhouse gas pollution Oregon will allow in the coming decades. The EQC will make the final decision on how Oregon will regulate greenhouse gas pollution.
- The EQC will also be taking comments during August and September.
- This guide will be updated once those public comment opportunities are posted by DEQ and EQC. They need to hear from all of us, often!
- Submit written comments to GHGCR2021@deq.state.or.us and join online hearings on September 22 and 28.

More information: Contact Dan Serres, dan@columbiariverkeeper.org
Visit <https://www.columbiariverkeeper.org/take-action/ghg-or>

See next pages for ideas on what to focus on when you submit comments.

COMMENTING GUIDE

Tips for Good Oral Comments:

- State your name, where you come from, and a brief reason for why Oregon's greenhouse rules are important to you personally.

- Stick to one or two points. You may only have 2-3 minutes to speak, depending on the number of participants. (We've done some legwork by providing potential bullet points below.)
- Practice your comment once or twice out loud: this will make you feel more comfortable on the day of testimony.
- Put things in your own words, and feel free to acknowledge when you agree with a previous speaker. This is helpful to the Commission in understanding that there is a common theme and widespread sentiment among the public giving testimony.

Ideas for testimony themes:

- **The name “Climate Protection Program” connotes a comprehensive regulatory program to protect Oregon from the worst effects of climate change, but as drafted, the CPP affects only a small percentage of Oregon’s emissions.** We suggest DEQ rename the program so as not to mislead Oregonians into believing that DEQ has crafted a comprehensive strategy for reducing greenhouse gas emissions across the board.

We urge DEQ to broaden the scope of the CPP to match the scale of the task ahead of us and to position Oregon to meet the goals set forth in Executive Order 20-04. Thus far, DEQ’s proposal falls short.

- **As we have before, we urge EQC and DEQ to regulate GHG emissions from Oregon’s top six climate polluters: fracked gas power plants, which account for more than half of Oregon’s GHG emissions from stationary sources with air permits (not including their upstream fugitive emissions).** Merchant power plants that do not supply electricity to Oregon’s grid—because they export it to other states, or supply private companies directly—are not regulated by either HB 2021 or the CPP. DEQ’s failure to capture these emissions in the program is a central failing of the rulemaking.
- **Oregon’s draft rules fail to protect the communities that will be impacted by fossil fuel power plants.** Further, the rules seem open to out-of-state bitcoin miners and other industrial users to buy fracked gas power from out-of-state while the pollution lands on BIPOC and frontline communities. DEQ is failing in

its commitment to equity - to protect Oregonians from fracked gas pollution that both creates climate chaos and impacts the health of many Oregonians.

- **We urge DEQ to comprehensively regulate entities that create GHG pollution by combusting fracked gas, rather than focusing all regulatory action on the utilities.** Instead, DEQ chose to define covered gas emissions narrowly, exempting from the scope of the program fugitive emissions and emissions from downstream stationary sources that combust gas purchased from a utility. By doing so, DEQ has ignored a large source of greenhouse gas emissions in Oregon and missed an important opportunity to incentivize a reduction in fracked gas combustion.

- **We appreciate and support DEQ's work to add clarity about the importance of equity in the purpose and scope of this rulemaking.** The rules will take shape more effectively and justly with these values as a central guiding principle. **However, the current draft rules do not adequately address DEQ's promise to include equity in its rulemaking.** Throughout this rulemaking, DEQ has pledged to give at least as much weight to equity as it gives to controlling costs for businesses in deciding how to reduce greenhouse gas emissions. But the draft rules prefer to address polluter cost concerns before the concerns of many experiencing pollution from many types of fossil fuel burning.

- **We support DEQ's steps towards declining the fuel supplier threshold over time, bringing in more polluters over time.** However, in light of DEQ's decision to narrow the cap and trade program to apply narrowly to only certain sectors, we urge EQC to support the elimination of any threshold for including fuel suppliers in the CPP. The CPP should cover all emissions from fuel suppliers. In the alternative, DEQ should set the initial threshold at 25,000 MTCO_{2e} rather than having that be the final threshold. Although the declining threshold rule does not go far enough, leaving many emissions from fuel suppliers wholly unregulated, it is a step in the right direction, and a more climate-protective rule than the previous version.

- **DEQ must strengthen rules to reduce pollution from stationary sources.**
 - The stationary source program continues to be largely toothless and fails to realize the potential environmental justice benefits of directly regulating stationary sources rather than bringing them under the cap.
 - First and foremost, the proposed rules must contain sideboards to ensure that the individual regulations established by DEQ will benefit communities disproportionately impacted by pollution from these facilities.

- While we support the rule provisions that require regulated stationary sources to analyze the environmental and health impacts of any emissions reduction strategy, including on nearby communities, nothing in the rules requires DEQ to prioritize benefits to nearby communities in making a Best Available Emissions Reduction (BAER) determination. BAER determinations will not, on their own, bring down overall climate-changing emissions from stationary sources.
 - The rules should explicitly elevate environmental justice as an important consideration in setting emissions limits for the regulated stationary sources.
- **DEQ should set an overarching emissions reduction target for stationary sources.** We urge DEQ to establish actual emissions reduction goals for the regulated stationary sources collectively. An overarching emissions reduction goal is necessary to help guide DEQ's discretion in creating individualized regulatory programs for the covered stationary sources.
- **DEQ should lower the threshold and eliminate the call-in model for stationary sources.** The CPP should cover more stationary sources. It should also apply to all covered stationary sources as soon as the CPP goes into effect, rather than requiring DEQ to take the additional unnecessary step of "calling in" a facility with emissions above the threshold.
- **The compliance instrument reserve should not roll over from year to year.** In the event that DEQ does not distribute all of the compliance instruments held in reserve in a particular year, those instruments should be retired, rather than rolled over or distributed to fuel suppliers to bank. To allow instruments to remain in the program from year to year will potentially contribute to increased fossil fuel pollution and co-pollutants in impacted communities.
- **DEQ should not ignore harmful emissions from RNG, Biofuels, and Biomass.** Section 4 (which applies to non-natural gas fuel suppliers) and Section 5 (which applies to natural gas fuel suppliers) of the draft rules should not wholly exempt greenhouse gas emissions from the combustion of RNG, biofuels, and biomass. While these sources of energy may offer environmental advantages over the combustion of fracked gas, they still contribute to climate change and harm communities, and DEQ's rulemaking should not ignore those costs.
- **DEQ should regulate fugitive emissions.** Furthermore, DEQ should not exclude in-state fugitive emissions or emissions from corporations that own interstate pipelines from the definition of covered emissions.
- **We urge DEQ to strengthen the CCI program.** CCIs must be, first and foremost, about community: ensuring that, if a polluter chooses not to meet its

compliance obligation by reducing emissions, BIPOC and low-income rural communities in Oregon benefit from the CCI investment intended to offset the pollution. But at present, the CCI program does not contain sufficient sideboards to accomplish this goal. Specific suggestions for improvement include:

- requiring that the CCI program as a whole achieve 1:1 or greater emissions reductions
 - having DEQ, with input from the advisory committee, select which approved CCI projects get funded in what order and in what amount, rather than leaving that decision up to the regulated entities buying CCI credits.
 - prohibiting infinite banking of CCIs
 - supporting the Equity Advisory Committee with compensation and technical assistance.
- **DEQ is creating a sacrifice zone in Hermiston: excluding fugitive emissions undermines both equity and the ultimate goal of reducing greenhouse gas emissions.** The administrative convenience of the entities subject to regulation is not worth this significant cost. Poor air quality remains an issue in the Columbia Basin.
 - **HB 2021 is landmark legislation, but it doesn't compensate for DEQ's exemption of all fracked gas power plants from the Climate Protection Program.** By entirely exempting fossil fuel electric power generators from the Climate Protection Program, DEQ is creating a huge loophole that can be exploited by out-of-state energy buyers, energy intensive industries, as we have seen happen in other states. HB 2021 does not regulate out-of-state gas power purchasers. DEQ's proposed rules lock in pollution burdens for those already living close to fracked gas power plants. And right now, people are dying from climate disruption.
 - **Excluding emissions from entities that own interstate pipelines could create a massive loophole that allows massive sources of GHG emissions to go unregulated in Oregon.** With respect to the draft rules on the regulation of stationary sources (section 6), the exclusion of all "emissions from an air contamination source that is owned or operated by an interstate pipeline" could allow facilities like the proposed Jordan Cove LNG to fall entirely outside of the Climate Protection Program.
 - **The proposed compliance period is too long.** The proposed 3-year compliance period and September 30 deadline for demonstrating compliance would mean that entities subject to the Climate Protection Program would not have to demonstrate compliance until September 30, 2025, and again on September 30, 2028.

- **The initial cap should be based on Oregon’s goal of reducing emissions by at least 80% from 1990 levels by 2050.** DEQ’s proposed goals will fail to meet these reductions across Oregon’s economy, which was the directive in the Governor’s Executive Order 20-04. By creating large exemptions for the industries included under the cap (excluding stationary sources and fracked gas power plants), DEQ may not actually meet the reduction goals set forth.
- **The rules for stationary sources must contain concrete emissions reduction goals.** We urge DEQ to ensure that its rules are grounded in concrete goals for reducing emissions from stationary sources and are based on a study of the impacts of direct regulation on environmental justice communities. This could be best achieved by bringing stationary sources under a declining cap.
- **DEQ must conduct further study and share its results with the public.** Despite retaining ICF to model the impact of some of the policy choices DEQ is making in its rulemaking, DEQ has not, to our knowledge, studied the impact of some of its significant exemptions—including the exemption of fracked gas power plants, fugitive emissions, and emissions from pipeline operations—on Oregon’s overall ability to meet its GHG emission reductions goals, nor studied which communities in Oregon will reap the co-benefits of this program or analyzed the equity implications of DEQ’s decisions.
- **Oregon has a major decision to make: how will Oregon treat the top polluters in our state and build an equitable program to address climate-changing pollution, and all of the other pollution (like smog) that goes with it?**
 - We have grievous concerns regarding the Department of Environmental Quality’s proposed Greenhouse Gas Emissions Program 2021. The draft rules have significant flaws and gaps.
 - Oregon’s biggest polluters have had an outsized influence on the design of the program thus far.
 - Oregon DEQ’s goal of focusing potential benefits on frontline communities is well-intentioned, but the program’s proposed exemptions will render it ineffective and unbalanced.
 - Oregon DEQ has still failed to provide a clear rationale for its plan to exempt the state’s biggest polluters. How will anyone take a program seriously that places the burden of the program on everyone except for the state’s biggest polluters: fracked gas power plants?
- We urge Oregon DEQ to reverse course and include fracked gas power plants (also the whole electricity sector) in the new Climate Protection Program. DEQ should consider direct regulation of these mega-polluters. Each fracked gas power plant produces roughly 1 million tons or more of carbon dioxide equivalent

each year, yet DEQ proposes to exempt these polluters and place the burden of their pollution on others in Oregon. To exempt these plants would depart from the intent of the Governor's Executive Order 20-04.

- DEQ should be considering and modeling scenarios that regulate the fracked gas power industry as large stationary polluters. DEQ should inform its decision-making with careful consideration of more robust regulation of the fracked gas industry.
- Excluding the largest climate polluters in the state will result in an ineffectual program that fails to meet the state's climate goals and ignores the significant harm these facilities pose to frontline communities.
- The burden of greenhouse gas emissions, and their co-pollutants like smog-forming and cancer-causing VOCs, will be placed on BIPOC and other marginalized communities. Environmental justice should be Oregon DEQ's top priority in designing this program, not the desire of fracked gas polluters to avoid costs and inefficiencies for their polluting industry.
- Why would we shield the biggest polluters in Oregon from the cost of the impacts they are creating, only to foist these costs onto the most vulnerable people in Oregon? We shouldn't take this path, which undermines DEQ's equity goals.
- One of DEQ's stated goals for the program is to "prioritize equity by promoting benefits and alleviating burdens for environmental justice and impacted communities," yet the modeling DEQ plans to undertake may overlook the worst impacts to these communities.
 - Will DEQ be ready to see the negative impacts of smog-forming VOCs when they settle on the areas near Umatilla and Morrow counties, which host several of the state's largest, high-polluting fracked gas power plants?
 - Right now, DEQ is not focusing enough on the problem of how greenhouse gas polluters also create other types of pollution like particulate matter and VOCs that pose significant health risks to vulnerable populations.

- How can the agency expect to alleviate the burdens on these frontline communities if it doesn't have a firm understanding of exactly what those burdens are?
- If DEQ doesn't ask the right questions, it won't get useful answers to protect Oregonian's lungs, water, and air.
- Oregon's Governor says she's serious about climate action, but Oregon DEQ's proposed rules fall short of meeting the priorities of Governor Brown's [Executive Order 20-04](#), which calls on state agencies to use "any and all authority and discretion" available to meet Oregon's climate goals. Exempting our state's largest polluters—fracked gas power plants—from Oregon's new emissions reduction program conflicts directly with Executive Order 20-04.
- We strongly urge DEQ to reverse course now, before the rulemaking process proceeds much further. The agency simply cannot expect to develop a meaningful "Climate Protection Program" that protects frontline communities by exempting the largest climate polluters in the state and failing to thoroughly investigate the burdens on those communities.\
- If DEQ does not change course, Oregonians' willingness to support this program will falter. Seeing the largest polluters escape regulation while the pollution burdens compound on frontline communities, the public may lose confidence in DEQ's approach, altogether.
- Oregon's top polluters are all fracked gas plants. They are:
 - PGE Carty Fracked Gas Plant (Morrow County) - 1,152,211 tons/year of CO₂
 - PGE Port Westward Fracked Gas Plant (Columbia) - 1,027,715 tons/year of CO₂
 - PGE Coyote Springs Fracked Gas Plant (Morrow) - 1,364,780 tons/year of CO₂
 - Klamath Cogeneration (Klamath) - 1,152,211 tons/year of CO₂
 - Hermiston Generating Company (Umatilla) - 1,154,823 tons/year of CO₂
 - Hermiston Power LLC (Umatilla) - 1,700,894 tons/year of CO₂
- Altogether, Oregon's fracked gas power sector is poised to produce over 9 million tons of carbon dioxide equivalent each year. This figure does not include

the significant upstream pollution that arises from methane pollution, where fracked gas leaks from wells, pipes, compressors, and other equipment.

- The processes of fracking for gas, gathering fracked gas, and transporting and compressing fracked gas all generate huge streams of methane pollution that are not captured in the pollution tally for Oregon's fracked gas power plants.
- So - Oregon's fracked gas polluters already have a free pass. Lets not open the door even wider for them to pollute for decades to come.
- We will support DEQ in taking a better, more reasoned approach in regulating fracked gas polluters.
 - We will stand with you against pressure from these polluters when appropriate.
 - We are open to finding a real solution that addresses the pollution and cost burdens of climate changing pollution and health-harming co-pollutants on our communities.
 - We will stand with you in doing the right thing, but you have to take the first step in changing course.

Questions?

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