

Summary

Rulemaking Advisory Committee Meeting #2

Feb. 17, 2021, 9 a.m. to 4:30 p.m.

Zoom Meeting

List of attendees

Committee Members in Attendance (for all or part of meeting):

- Zach Baker, Climate Solutions
- Pam Barrow, Food Northwest
- Peter Brandom, League of Oregon Cities
- Lisa Arkin (alternate), Beyond Toxics & NAACP Eugene/Springfield
- Rebecca Descombes, Native American Youth & Family Center
- Darren Engle, Blue Star Gas
- Matt Solak (alternate), Blue Star Gas
- Taren Evans, Coalition of Communities of Color
- Mike Freese, Oregon Fuels Association
- Brendon Haggerty, Multnomah County Health Department
- Erin Hansell-Heideman, Blown Away Ranch
- John Hillock, Wallowa County
- Jana Jarvis, Oregon Trucking Association
- Bob Jenks, Citizen's Utility Board
- Nels Johnson, Northwest Natural
- Dan Kirschner, Northwest Gas Association
- Dylan Kruse, Sustainable Northwest
- Casey Kulla, Yamhill County
- Jan Lee, Oregon Association of Conservation Districts
- Stan Dean (alternate), Oregon Association of Conservation Districts
- Oriana Magnera, Verde
- Tim Miller, Oregon Business for Climate
- Sharla Moffett, Oregon Business & Industry
- Martha Moore, EVRAZ
- Mark Petrie, Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians
- Ellen Porter, Roseburg Forest Products
- Allie Rosenbluth, Rogue Climate
- Don Sampson, Affiliated Tribes of Northwest Indians
- Amy Schlusser, Green Energy Institute
- Steve Smith, Phillips 66
- Tiffany Roberts (alternate), Western States Petroleum Association
- Paul Snyder, Tillamook Creamery Association
- Alyn Spector, Cascade Natural Gas
- Jeff Stone, Association of Nurseries
- Kathryn VanNatta, NW Pulp & Paper Association
- Ranfis Villatoro, BlueGreen Alliance
- Keith Wilson, Titan Freight



State of Oregon
Department of
Environmental
Quality

The Office of Greenhouse Gas Programs

700 NE Multnomah St.,
Suite 600
Portland, OR 97232
Phone: 503-229-5696
800-452-4011
Fax: 503-229-6124

www.oregon.gov/DEQ

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enhancing the quality of
Oregon's air, land and
water.*

Staff in Attendance (for all or part of meeting):

DEQ

- Chloe Brown, GHG Programs Analyst
- Matt Davis, Senior Policy Analyst
- Matthew Espie, Climate Policy Analyst
- Colin McConnaha, Manager, Office of GHG Programs
- Nicole Singh, Senior Climate Policy Advisor
- Lauren Slawsky, Climate Policy Analyst
- Richard Whitman, Director

ICF

- Deb Harris
- Kasey Knoell

Kearns & West

- Sylvia Ciborowski, Facilitator
- Kirsten Hauge, Facilitation Team
- Bianca Valdez, Facilitation Team

Summary of Advisory Committee input

The Oregon Department of Environmental Quality (DEQ) thanks the participants in the meeting for their attention throughout the day. The dialogue continues to be constructive and will help DEQ plan for future meetings and develop program recommendations. Members expressed:

- A range of interests, concerns, and suggestions regarding data, modeling assumptions, proposed policy scenarios for modeling, and reference case results.
- Continued concerns about exempting the electrical sector in the modeling and the program.
- Interest in including job impacts and benefits in the modeling and considering potential barriers to access to Black, indigenous, and people of color (BIPOC) community members.
- Appreciation for breakout rooms as they allowed for smaller group discussions with diverse perspectives and allowed for the RAC members to understand each other more.
- Various input over DEQ’s proposed compliance flexibility mechanisms and point of regulation.
- Concerns about centering equity when considering compliance flexibility and considering potential impacts and benefits, as well as including in the modeling scenarios.
- Appreciation for DEQ’s consideration of feedback by including higher emission reduction targets in the modeling.

Agenda Item: Welcome, meeting ground rules and public comment opportunities

Sylvia Ciborowski, facilitator, opened the meeting, acknowledged the weather challenges of the recent snowstorm, and shared appreciation for RAC participation. Colin McConnaha welcomed and thanked advisory committee members for their participation and commitment to working towards a new rulemaking to establish Oregon’s Climate Protection Program. He provided brief introductions for the DEQ Office of Greenhouse Gas programs staff. Sylvia then reviewed the agenda, participation tips, and public participation

protocols. Additionally, she offered committee discussion guidelines to ensure the RAC operates in a collaborative fashion.

Agenda Item: Remarks by Director Richard Whitman

DEQ Director Richard Whitman shared his appreciation for the high level of engagement of the rulemaking process to date and invited continued participation. He then spoke on process, Governor Brown's Executive Order 20-04, and on the topic of electricity. He reminded the RAC that the decision maker in this process is the Environmental Quality Commission (EQC) and noted an upcoming briefing with the EQC at their March meeting. He also shared that DEQ is conducting outreach to frontline and BIPOC communities to hear their concerns and expertise as the program is designed. He then offered clarity on the meaning of staff leanings and that they are meant to provide transparency about current DEQ thinking to prompt discussion and are not final.

Director Whitman shared his thoughts on EO 20-04 and stated he is hopeful that they will exceed some of the goals and targets listed in the order. Additionally, the EO guides agency action but does not give EQC new authority beyond what the Oregon Legislature has established. On electricity, he stated that moving to 100% clean electricity is critical, however, reiterated DEQ's limited legislative authority in this sector. He acknowledged interests in addressing this issue and stated that legislative action is one way to accomplish that goal.

Agenda Item: Information on emissions associated with electricity use

Colin McConnaha briefly presented on emissions associated with electricity use. He shared that DEQ acknowledges the electricity sector as critical, from an emissions and long-term standpoint, for a deeply decarbonized economy. He reiterated the existing limitations on the agency's authority to address the sector directly and explained why DEQ is focusing on establishing enforceable limits on fossil fuels used in Oregon, including gasoline, diesel, and natural gas emissions. He added that electricity is on track to make significant improvements in emission reductions.

Questions/Comments

- Several expressed their continued concern over the exemption of the electricity sector in the program.
- One member asked for more information about leakage and evidence that utilities would generate emissions in ways that would be harmful for the climate outside of Oregon.
- Another member noted that EO 20-04 assigned the electric sector to the Public Utility Commission (PUC) which now has authority to consider carbon emissions, and attention should be directed to the PUC and their implementation of the EO. It was shared the removing the electric sector in this program may be an advantage that puts pressures on other sectors to clean up. A solution is to add renewables and create more markets, so more renewables displace gas.
- Some members shared that DEQ still has some authority in this sector and encouraged the agency to think creatively on actions they can take in addressing electricity emissions. This may be finding ways to help advance conversations about emissions reductions, such as restricting new gas plant investments in Oregon or including electricity emissions in the program's modeling to provide better data.
- Another member stated that DEQ should consider the environmental justice impacts of fossil fuel electricity generation and seek opportunities to support community resiliency through a transition to renewable energy generation. The rulemaking should seek positive impacts on Oregon community's health. The program should address the in-state generation that is exported.

- A member shared there is a gap in the state in the level of regulatory oversight over gas plants owned by investor-owned utilities vs independent power producers and merchant gas plants. Through this program DEQ has the opportunity to prevent new merchant gas plants in Oregon.
- Another member expressed the need for reliable energy sources that are affordable. Affordability is good for certain industries and some of those industries sequester carbon.

Agenda Item: Reflections and updates from RAC#1

Nicole Singh opened with high-level takeaways from the first RAC meeting. She acknowledged the multiple suggestions for improvement and shared that DEQ is actively finding ways to incorporate and implement the suggestions, especially in the current virtual environment. Bianca Valdez, Kearns & West, shared what was heard in the RAC member interviews in January 2021. Kearns & West interviewed a sampling of RAC members to identify the hopes, expectations, and suggestions for a constructive RAC process. Nicole Singh shared how DEQ is trying to incorporate the RAC's feedback in the process, including holding breakout group discussions in the meeting. She also shared the meeting objectives of the second RAC meeting and provided RAC work plan updates. The meeting objectives were the following:

- Develop a shared understanding of program framework
- Maximize value of advisory committee participation
- Identify any areas of agreement on current DEQ leanings for program design

Agenda Item: Update on health, equity and co-benefits assessment

Nicole Singh provided an update on the health, equity, and co-benefits assessment. She shared that the modeling study exists to inform the development of the Climate Protection Program and there are multiple components of the study, including evaluating potential public health impacts and a co-benefits and equity assessment. Details are provided in slides 23-25. Sylvia Ciborowski then opened the discussion for clarifying questions and discussion.

Questions/Comments

- One member commented that it is encouraging to hear that one of the potential indicators for the assessment is green jobs and noted there are barriers for many low-income BIPOC community members. Job creation in low-income communities is a good policy goal, but requires further conversation about hiring practices.
 - Another member expressed their support for the inclusion of aspects of job impacts in the modeling. Additionally, it would be beneficial to clarify job creation as a co-benefit.
- Another stated that the modeling needs to use an equity lens to confirm the impacts of the program are equitable while simultaneously reducing greenhouse gas emissions and co-pollutants in BIPOC communities.
- One member asked about what co-pollutants are being included in the model and specifically wondered if both stationary and mobile source emitters are included.
- Another member wondered if DEQ will share their assumptions that will go into the model, particularly about co-pollutants and diesel.

Response: DEQ shared that the inputs they will use in the modeling will be looking at emissions information coming out of the multi-sector model, which includes the transportation and electricity sector. Particulate

matter is the primary co-pollutant considered in the modeling. The equity and co-benefits assessment will be qualitative as well as quantitative to provide as holistic a picture as possible.

DEQ explained that later in the meeting they would talk more about the development of the [reference case](#) as well as the [assumptions in the modeling policy scenarios](#).

Agenda Item: Information on understanding how the Climate Protection Program would work

Nicole Singh provided an overview on how the Climate Protection Program would work in practice. She touched on the overall framework, how the program uses caps to prevent pollution, key considerations, and benefits of the program design. She also shared an example of how entities would use compliance instruments to achieve overall emission reductions within the covered sectors. Details are provided in slides 28-32. Sylvia Ciborowski then opened the discussion for clarifying questions and comments.

Questions/Comments

- One member noted that, unlike the example, not everyone will start with the same amount of compliance instruments and wondered what allocation would look like.

Response: DEQ explained that one of their program design elements is the actual distribution of compliance instruments. DEQ will most likely be looking at historical emissions to determine allocations of the compliance instruments.

- Members expressed concern about the compliance flexibility mechanisms shown in the example, which seem to prioritize keeping costs down for regulated parties. The harmful impacts on environmental justice communities also need to be part of the conversation.

Response: DEQ stated they are trying to think about how alternative compliance options could be used to drive benefits toward environmental justice communities and that the agency is considering short and long-term costs for these communities in their analysis.

- Another member shared concerns about the use of the term “flexibility” since they felt the use of alternative compliance must not result in harm in one community but investment in another, nor should it create a scenario where an entity is offering some benefit to a community while creating emissions. It was suggested that alternative compliance must not be viewed as an alternative to making real emissions reductions.
- One member encouraged DEQ to maintain flexibility in the program and work within it as the program grows. Beginning a program with limited flexibility or discouraging alternative compliance instruments is a challenging approach.

Agenda Item: Discussion on the role of compliance flexibility measures and key considerations

Nicole Singh provided a high-level presentation on DEQ’s current leanings of compliance flexibility mechanisms. Matthew Espie then went into further detail of each of the compliance flexibility mechanisms (banking, trading, alternative compliance, and multi-year compliance periods) and how each supports the goals of the program. Details are provided in slides 35-43. Sylvia Ciborowski touched on key questions for RAC members to discuss in the breakout rooms. The questions were the following:

1. Which mechanism (i.e., banking, trading, alternative compliance, multi-year compliance period) do you find the most effective for supporting emissions reductions, containing costs, and equitable outcomes? Which do you find the least effective in achieving these goals and why?
2. What other compliance period lengths might be considered?
3. What are your thoughts on whether/how the program could include structuring alternative compliance options to drive investments that reduce greenhouse gases in ways that most benefit Oregon's impacted communities?

The RAC members were divided into three breakout groups. Following the breakout session, DEQ staff and a few RAC volunteers reported out what was discussed in the breakout rooms to all attendees.

Room 1 report out:

- General support for banking to incentivize early greenhouse gas reductions.
- General support for three-year compliance periods.
- Some support for trading but with concerns about potential impacts to environmental justice communities.
- There were concerns with alternative compliance, regarding sufficient supply and environmental justice impacts.
- Others commented on related issues such as carbon sequestration and how that would interact with the program and how early action or adoption that has already taken place would be recognized.

Room 2 report out:

- Some potentially regulated industry representatives and others expressed interest in broad and multiple forms of flexibility measures to help reduce risk, contain costs, and account for variability in differences across industries.
- Others shared their interest in limits on banking to ensure continued progress over time.
- Some shared that disadvantaged communities do not have flexibility in avoiding impacts from co-pollutants, and therefore, the compliance measures should ensure investment does not occur in one community while harm occurs in another.
- Interest in creating benefits for communities and reducing harm simultaneously.
- In balancing compliance flexibility mechanisms, it was suggested that DEQ consider the rules, so businesses qualify for access for differing flexibility measures.
- Interest in how alternative compliance can potentially support new technologies that will be needed to move the program forward.

Room 3 report out:

- Several members wanted to ensure an ambitious cap with compliance flexibility and to set clear limits that are achievable and that the different compliance mechanisms do not deviate from those limits.
- Others shared that these are compliance tools to achieve emissions reductions.
- There was a suggestion to ensure emission reductions occurs through a partial demonstration of compliance in early years of a multi-year compliance period.
- Members shared that they wanted to recognize the existing harms to impacted communities and see that the emission reductions protect Oregon communities.
- A member stated that DEQ should engage with Tribes on the compliance mechanisms.
- Interest in finding ways for low income and BIPOC communities to implement different technology that would prevent rising fuel costs.
- Interest in recognizing compliance costs and need for implementation time for regulated entities

- Concerns about available supply of alternative compliance instruments
- Concerns about leakage

Agenda Item: Public comment

There were six public comments during this time. Public comments included the following:

- Appreciation for DEQ’s response to previous public comment by including a higher emissions reduction target than required by EO in the modeling scenarios, including natural gas emissions by stationary sources in one of the scenarios, and the process emissions in all of the scenarios. Support for including these options in the final program. Additionally, supported legislative action on clean electricity and including it in the modeling for this program.
- Support for including ambitious emissions reduction targets in DEQ’s modeling, since it directly connects to alternative compliance instruments. Interest in DEQ providing data about why including the electricity sector would pose a leakage risk.
- Support for protecting small businesses and equity for rural Oregonians, as well as providing flexibility and cost containment so that companies are not disincentivized from thriving within Oregon. Consider other impacts to Oregon businesses, such as the Corporate Activity Tax. Interest in finding out more about the grouping of entities, caps associated with grouped entities, ownership of excess compliance instruments, and if regulated entities can invest in themselves.
- Commented that this process is not centering equity if it exempts the electricity sector, since this leads to impacts on environmental justice communities. The program will not achieve its stated goals if the co-pollutant issue is not addressed and if the program design includes trading and banking.
- Concern over the absence of carbon sequestration as an option in the section on alternative compliance options. Carbon sequestration is a financial incentive and would represent a mechanism to inject funds into rural communities within Oregon.
- Concern that the electricity sector emissions should only be addressed through customer emissions, rather than generation of that electricity. Expressed support for no exemptions of natural gas power plant emissions. Additionally, ensure that carbon sequestration is an option in the program.

Agenda Item: Discussion on understanding point of regulation

Nicole Singh provided background on what point of regulation means, its importance, and reviewed agency leanings on the topic. She reviewed key sectors (fuel suppliers, natural gas suppliers, and stationary sources), reviewed where the emissions are occurring and where it comes into the state. Lauren Slawsky expanded on the type of emissions data DEQ is currently collecting, reviewed the indirect impacts to environment justice and impacted communities and the DEQ leanings by sector. Details are provided in slides 50-55. Sylvia Ciborowski opened the discussion for clarifying questions and feedback.

Questions/Comments:

- One member noted that under the connections to equitable outcomes, area sources are neglected. These are important sources to consider and tend to be widely distributed within neighborhoods.
- Another member stated that in regard to point of regulation it is critical to understand how it’s done and not where it’s done.
- A member representing natural gas utilities discussed that in terms of very large stationary sources that are transport customers, as opposed to their core customers, there are no drivers to reduce energy

usage or emissions for transport customers. This is something to keep in mind as DEQ is looking at point of regulation for utility transport customers.

- Another member expressed concerns about the absence of the transport customer, due to missing fugitive emissions that come in the process with transporting natural gas, so a more holistic approach is recommended on the natural gas side that applies for both the supplier and their responsibility for transport and on the end user. With this approach, there needs to be two points of regulation on the direct impacts on communities as well as on the responsibility of moving more natural gas in our system. There is also the issue of fuel costs to consider, however it is suggested that there are more impacts on the business side rather than the end user side.
- A member shared that the program should help drive innovation by sending clear price signals to where decision-makers can act. On benefit of downstream regulation is that it can incentivize behavioral changes, which then drives the development of new technology.
- One member noted that what works for small businesses will be a critical component to this rulemaking and that DEQ should not add several small businesses to the complex regulations.
- Another shared that a big challenge driving uncertainty in the point of regulation discussion is around the lack of information on what the compliance pathways will be and whether there will be a reasonable number of compliance instruments. If the leaning is toward regulating fuel suppliers, that will look more like a carbon tax than a cap and reduce program.
- One member asked how the entry threshold, the allocations, and the cap will work if the point of regulation is directed at the supplier.
- Another member asked for DEQ to not limit their program design based on existing data and technology.

Response: DEQ noted their ability to change reporting requirements for greenhouse gas emissions and to design the point of emissions reporting within certain parameters.

- Another RAC member wondered about if DEQ tracks fugitive emissions and reporting on other leakage concerns.

Response: DEQ replied that those are emissions are more difficult for DEQ to get directly reported but they are further exploring this issue. DEQ noted that this program is regulating natural gas combustion emissions.

Agenda Item: Updates on modeling, including review of reference case results

Nicole Singh provided high-level updates on modeling program options. Deb Harris and Kasey Knoell with ICF joined the meeting for this presentation and discussions. Lauren Slawsky reviewed key points on the assumptions and policies included in the reference cases and noted that DEQ will be providing more detailed background on the assumptions included in the reference case. Sylvia Ciborowski opened the opportunity for RAC members to ask clarifying questions as Deb Harris presented the reference case results. Details are provided in slides 61-65.

Questions/Comments:

- On the energy efficient modeling on integrated resource plan, what level of potential was pulled into the model whether that was technical, economic, or achievable potential?

Response: ICF noted that they would need to look into that and follow-up with a response.

- How was agriculture defined in the results, and are farm practices or methane from animals being considered? Requested to further review the data with the DEQ team.

Response: ICF replied that emissions from livestock, soil management, and residue burning were included. DEQ further explained that the sector splits are in alignment with the statewide inventory and they would be happy to answer follow-up questions.

- Do the results represent all of the natural gas usage?

Response: ICF explained that the natural gas represented end use combustion not associated with electricity generation and added that the electricity emissions account for multiple generation types, including natural gas.

- The chart models future emissions according to source. Is the electricity consumption shown here all in-state generation that's consumed or does this include all electricity consumption?

Response: ICF replied that it represents all electricity consumption.

- Electric passenger cars are referenced. How are medium and heavy-duty categories applied?

Response: ICF replied that they take fuel efficiencies into account when looking at the Clean Fuels program and it is not driven by electric.

- Equity elements are in the COBRA public health modeling, however, is there any work to be done beyond economy wide emissions?

Response: DEQ shared that this is the starting point but will need to look at the overall emissions reductions and how the impacts are different by community. The Climate Protection Program has yet to be modeled.

- Does the modeling consider disruptor events such as COVID?

Response: ICF replied that uncertainty is high with modeling into the future. Assumptions are not being made about drastic shifts in this modeling. ICF is using historical data and not considering disrupter data.

- If equity is of equal concern, the modeling does not show where pollution is occurring and who is being impacted.
- Interest in including census information to identify BIPOC communities.

Response: ICF replied that their plan is to use a phased approach and that COBRA uses pollution data to compare difference in health impacts due to particulate matter emissions at incremental differences between the policy scenarios and the reference case. There is also an opportunity to overlay census demographic data.

- A member noted a correction to be made on the high-level results chart.

Response: ICF noted they would make the correction and post online.

- When will job related impacts and benefits be included in the modeling?

Response: ICF replied that the way jobs are estimated is with IMPLAN, which will measure incremental job growth in the policy cases compared to the reference case.

- What accounts for the increase in the industrial emissions on slide 64?

Response: ICF said the growth rates are projected when looking at various factors such as population growth or growth rates seen within the annual energy outlook reference case. This is something that the Energy and Information Administration publishes, and they have significant growth in their reference case for industrial fuel use and that is associated with emissions. ICF can pull out more information and share that in regard to what is driving that growth.

- Are emissions associated with materials themselves rather than the energy to produce it? DEQ also has one of the best materials management programs in the country and should consider opportunities related to materials.

Response: ICF said the model reflects both materials and the production emissions.

- Are you looking at a separate reference case to reflect the EO with clean fuels and energy efficiency?

Response: DEQ said they opted to include an option for expanded clean fuels as this the area where they have the most relevant data sources for the modeling, which is why they opted to include in all three policy cases. ICF noted the goal was to include the least amount of uncertainty.

- Suggestion to look at emissions from gas companies based in Oregon rather than national standards, since Oregon is very different than the east coast.

Response: DEQ said they would provide additional resources around assumptions used in the reference case

Agenda Item: Review of three modeling policy scenarios

Nicole Singh shared a brief review of the three modeling policy scenarios and then reviewed the assumptions for each scenario. She added that they do not represent final or complete program design proposals but do reflect some DEQ leanings. DEQ plans to follow the three initial policy scenarios with a fourth modeling scenario b. Lauren Slawsky and ICF were available to provide additional detail and context. Details are provided in slides 68-70. Sylvia Ciborowski opened the discussion for clarifying questions and comments.

Questions/Comments:

- One member expressed their concern over the lack of engagement between DEQ and Oregon Tribes and the importance of their involvement as a frontline community.

Response: DEQ explained that they sent letters to each of the nine federally recognized Tribes offering to begin formal government-to-government consultation and they will continue to work on this engagement including phone calls between Director Whitman and the Tribal chairs.

- One member expressed their confusion between policy scenarios 2 and 3 on the cap trajectory and suggested to keep the 2050 goals the same so to tell the difference between other policy changes.
- Another member asked whether natural gas utility suppliers included local distribution companies or marketers.

Response: DEQ explained that it is meant to imply the utility level and sales and transport gas.

- A member said they were happy to discuss how the modeling can answer questions about job quality.
- Another member expressed concern that they did not see the level of complexity of the conversations happening at the RAC reflected in the scenario models. Additionally, they wanted to see policy scenarios including natural gas and the electricity sector, and more combinations of compliance flexibility mechanisms (e.g., some with no alternative compliance options included, or with trading but not banking).

Response: DEQ explained that because the program does not plan to include the electric sector, they are not planning on including it in the scenario models. ICF noted that they would have a conversation about potential changes to the modeling and what would result in a meaningful difference.

- Support was offered to DEQ in their decision to include a scenario that includes even greater emission reduction targets.

Agenda Item: Next steps

Sylvia provided closing comments, reminding attendees to submit written comments and feedback to DEQ by Feb. 26 and the third RAC meeting scheduled for Mar. 18. Colin McConnaha offered his final thoughts on the second RAC meeting and appreciated the comments from the RAC.

Agenda Item: Public Comment

There were four additional comments during this time. A RAC member also suggested that future presentations clarify covered entities to inform public comments. Public comments included the following:

- Shared interest in learning more about trading of compliance instruments, who would control their distribution, and how their value would be determined. Expressed specific concern for recognizing early actions by farmers) and how excess compliance instruments are offered and made available.
- Requested more information about the quantification of allowable emissions and ways emissions would be allocated to inform feedback.
- Expressed concern about cost impacts to mid-sized agricultural producers and that those who can afford it will be able to purchase credits without efforts to reduce emissions.
- Noted that it was important to clarify that the problem is not just carbon emissions, which is why DEQ talks about carbon dioxide equivalent when discussing greenhouse gas emissions. Expressed concern about validity of modeling data presented.

Meeting adjourned at approximately 4:30 p.m.

Alternative formats

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.state.or.us.