Understanding the new climate rules

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Oregon's new climate protection program is expected to increase certain business costs

On December 16, 2021, the Oregon Environmental Quality Commission (EQC) voted to approve the Climate Protection Program (CPP).

The CPP, codified in Oregon Administrative Rules Chapter 340, Division 271, joins other Oregon climate-focused rules, including the Clean Trucks Program and Clean Fuels Program. It traces its origins to an executive order issued by Gov. Kate Brown on March 10, 2020, one year after Oregon Senate Republicans staged a walkout in response to proposed cap and trade legislation.

Executive Order 20-04 specifically directed the Department of Environmental Quality (DEQ) and the EQC to take actions to cap and reduce greenhouse gas emissions from large stationary sources, transportation fuels, and all other liquid and gaseous fuels.

Under the auspices of the Executive Order, DEQ convened a rulemaking committee in January 2021 to address ways for Oregon to reduce greenhouse gas emissions from fossil fuels. DEQ also enlisted ICF, a consulting firm, to study program designs for programs that could reduce greenhouse gas emissions.

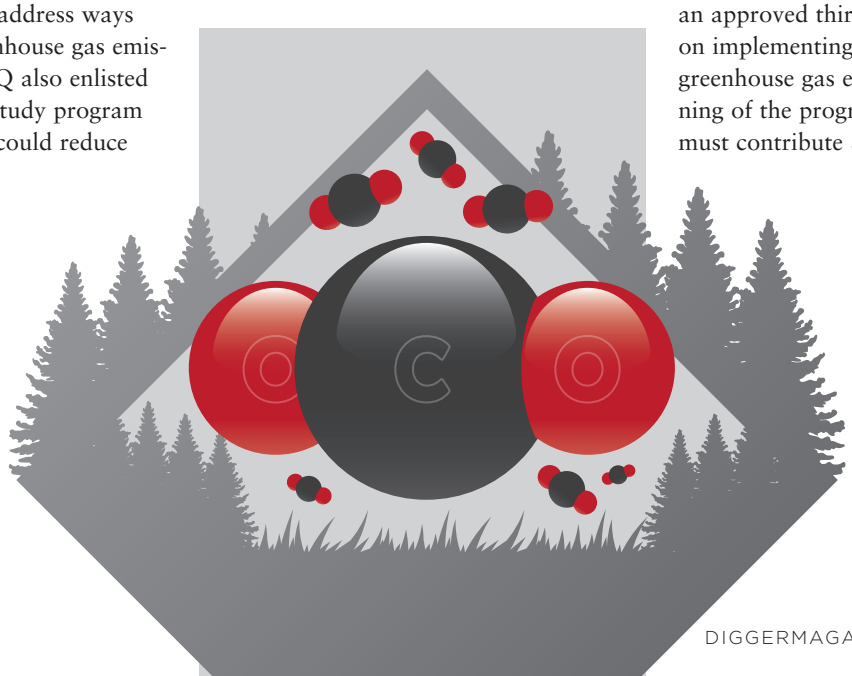
The EQC's vote in December represented a culmination of DEQ's work with the committee and ICF to draft rules, and gave Oregon a version of cap and reduce that did not require legislative approval.

Mechanics of the CPP

DEQ articulated three broad goals for the CPP: 1) reduce greenhouse gas emissions in order to address climate change; 2) achieve co-benefits from the reduction of other non-greenhouse gas air contaminants; and 3) improve the welfare of communities of color, tribal communities, communities experiencing lower incomes, and rural communities. DEQ proposes to achieve the listed goals by requiring certain entities designated in the rules to reduce their greenhouse gas emissions.

At a high level, the CPP aims to cap greenhouse gas emissions from fossil fuel sources, including diesel, gasoline, natural gas, and propane. The CPP rules apply when those fossil fuel sources are used in a variety of contexts, including transportation, residential, commercial, and industrial settings.

Under the CPP, suppliers and in-state producers of the fossil fuel sources listed above are regulated entities subject to a limit on carbon dioxide emissions. The allowable limit on carbon emissions will diminish over the next few decades with the ultimate goal of a 90% reduction in emissions by 2050.



While the emissions cap will be lowered each year, the CPP will give regulated entities compliance flexibility by distributing "compliance instruments" on an annual basis. The number of available "compliance instruments" will be equivalent to the annual cap established in the CPP rules. Regulated entities may trade or bank these compliance instruments in order to meet the emissions reductions requirements of the CPP. Each compliance instrument represents one metric ton of carbon dioxide equivalent (MTCO2e).

In addition to compliance instruments distributed by DEQ, regulated entities may also submit a Community Climate Investment (CCI) credit to offset one MTCO2e. In order to earn a CCI credit, a regulated entity must provide funding to an approved third-party entity that focuses on implementing projects that will reduce greenhouse gas emissions. At the beginning of the program, a regulated entity must contribute $81 to an approved CCI entity to earn one CCI credit. The required amount will increase over the course of the program.

Beginning on January 1, 2022, all fuel suppliers with emissions of 200,000 MTCO2e as measured in any year subsequent to 2019 became covered entities subject to the CPP rules.

Entities with emissions that exceed 100,000 MTCO2e will be covered by the CPP beginning in 2025, and this pattern will continue until 2050, at which point the CPP will apply to all fuel suppliers with emissions that meet or exceed 25,000 MTCO2e.

Sequestration — a missing component

The CPP is missing one notable emissions reduction pathway of particular interest to nurseries: carbon sequestration. The U.S. Geological Survey defines biologic carbon sequestration as the process by which vegetation, soils, and woody products capture and store atmospheric carbon dioxide, a greenhouse gas. As growers of vegetation and woody plants and stewards of soil, nurseries have a significant interest in the sequestration conversation.

In an interview with the Jefferson Exchange on Jefferson Public Radio, DEQ Director Richard Whitman acknowledged that while the process of drafting the rules included discussions about sequestration, the decision not to include it in the program ultimately came down to a question of priority.

According to Whitman, the EQC prioritized spending community climate funds to help designated communities reduce their reliance on fossil fuels. He noted that the EQC directed DEQ to look at other funding sources for sequestration, and that the department would bring that work back to the commission in 2022.

While it appears that the sequestration conversation is still alive, it remains to be seen how it will be incorporated into future CPP-adjacent efforts or other Oregon climate efforts.

Potential impacts

Since conversations about the CPP rules began, a main concern among members of the agricultural community has been the additional costs that could be incurred by fuel suppliers and passed on to agricultural entities, particularly through increased transportation costs.

Additionally, nurseries that use natural gas to heat their greenhouses have been wary of potential price increases that may occur as natural gas suppliers pass on compliance costs to the customer.

As the CPP begins its first compliance period in 2022 and moves toward the second one in 2025, nurseries and other businesses should stay alert as we begin to better understand the impact of the CPP on businesses in the state.