Clean Energy Jobs / Regulated Entities Work Group

Homework Responses Bullet Points

Question 1: What aspects of a cap-and-invest policy as it is being discussed in Oregon are you most concerned about for your organization/industry/constituents/customers?

GENERAL

- How would industrial customer rates be affected by allowance allocations to utilities? What customers will benefit and how will this be determined. How will utilities be regulated?
- What recent or anticipated Oregon rules and regulations for manufacturers could influence available capital to do energy efficiency projects and otherwise compete with other states? For instance, the Cleaner Air Oregon rulemaking could consume immense capital from a number of regulated sources. It is important to understand what impact that rulemaking could have on regulated sources to better understand how that program could influence and/or interact with other state regulations and the ability for regulated entities to comply with this proposed program.
- Regulated entities often pay fees to cover the cost of regulatory programs. What are the anticipated fees to cover the cost of this program? What regulatory obligations will DEQ (or other state agency(ies)) apply to regulated entities above and beyond submitting the requisite number of allowances?
- How do California regulated entities interact with the California cap-and-trade program? If joining the California market is a goal, how will those California interactions above impact Oregon's program design, now and into the future?
- How will the clean fuels program and the cap-and-trade program interact together? What fees will OFA members be responsible for under both programs? Lastly, what will the impact be to fuel prices if both programs are implemented simultaneously? Do those fuel prices change for some retailers and not others? If so, please explain.
- Give businesses time to adapt but avoid undue delay.

SCOPE

- Will certain entities be out-right exempt or conditionally exempt from regulation under this program (EITE, under 25,000 MtCO2, biogenic emissions)? If so, please explain, including the process for seeking an exemption.
- Based on our reading of the policy proposal, an entity that imports fuel from out-of-state and the amount of fuel as a GHG equivalent of over 25,000 MtCO2, those importing entities will be covered entities and therefore regulated under the cap-and-trade program. This requirement will not apply to all importers and all retailers. Meaning, some fuel retailers and consumers will pay for these allowances through their fuel prices while others will not. This approach would be a marked departure from the California cap-and-trade system, which sets the point of regulation at the refiner/producer-level. Oregon does not have in-state refiners. Therefore, OFA members question whether this is an equitable approach to taxing and regulating greenhouse gas emissions.
- Apparent failure of the draft legislation to explicitly exempt waste and agriculture, even though this seems to be intended (per work group presentations and previous information).
- The policy should provide regulatory certainty to covered entities and ensure a direct relationship between covered entities and those entities with the ability to take action to reduce emissions.

ALLOWANCE/AUCTIONS

- Will certain entities compete for a limited number of free or discounted allowances? If so, please describe these entities and the process for seeking access to free/discounted allowances?
- We would like to know how the Chair envisions the distribution of allowances to the regulated

entities in the fuels sector.

- An auction or other mechanism should be used to generate program revenue when pollution allowances are distributed.
- The bill provides no reason for confidence that all of our customers will be protected from cost impacts through allowance allocation.
- Allowance allocation and auctioning (Sec 10(1)(d))—The bill auctions allowances after addressing leakage risks and distributing allowances to electric and natural gas utilities for the benefit of ratepayers. Auctioning is an important best-practice to prevent windfall profits and ensure public benefits from the program.

EMISSIONS-INTENSIVE, TRADE-EXPOSED INDUSTRIES (EITE)/LEAKEGE

- Special consideration for cases where an industry can easily avoid regulation by moving out of state.
- Addresses competitiveness concerns (Sec 10(2))—The bill prudently includes provisions to minimize risks to emissions-intensive, trade-exposed industries, and to reassess these risks over time.
- What is the definition of Emissions (Energy) Intensive Trade Exposed entities? How will EITEs be determined? Will there be an outright exemption for certain industries or will standards be set? Will there be an exemption process or a determination process? What are approaches that have been used in other markets? What are approaches that could be used in Oregon?
- Leakage does not involve only EITE companies.
- Flexibility to protect Oregon's manufacturing sector against leakage;
- We are particularly concerned about the potential impacts of policies on energy intensive/trade sensitive businesses in Oregon.
- What is the definition of Emissions (Energy) Intensive Trade Exposed entities? How will EITEs be determined? Will there be an outright exemption for certain industries or will standards be set? Will there be an exemption process or a determination process? What are approaches that have been used in other markets? What are approaches that could be used in Oregon?
- Leakage does not involve only EITE companies. Increased energy costs that result from implementation of cap-and invest can adversely impact non-EITE companies and affect their competitiveness relative to foreign and domestic competitors, especially companies with extremely thin margins. Leakage impacts are not restricted to solely to emissions/environmental impacts but include loss of jobs, loss of tax revenue, loss of economic multiplier benefits, e.g., other businesses and jobs, community infrastructure and support.
- In terms of EITEs and treatment of regulated entities it is important to ensure that allowance allocations and the methodology applied to determining appropriate allocations and models are based on Oregon outputs while evaluating and learning from other program designs and methods specifically WCI programs. Furthermore it is important to factor in competitiveness and addressing leakage concerns when determining allocations specifically for industries that are in highly competitive trade exposed sectors with high emissions costs. Considering this it is also important to prevent over allocations or priming the market with too many free allowances which in turn can cause market dilution and also weaken the environmental integrity of the program.

COST CONTAINMENT

- SB 1070 proposes several compliance pathways for manufacturers from purchasing allowances to obtaining offset credits. Depending on the number and access to offset credits, the costs to regulated entities differs. How many offset credits will be available under this program –meaning, will there be enough offsets for all regulated entities to cover up to 8% of their compliance obligation? Will regulated entities have the ability to generate offset credits?

- It is critical that the price be imposed only once for a given emission issuance, and that regulated entities are not subject to multiple, pancaked compliance obligations. Oregon needs to ensure (1) that there is a clearly defined, single point of compliance for a given emission within the state; (2) compliance entities are not required to meet compliance obligations both in Oregon as well as in other states, like California; and (3) that appropriate recognition be given for early action payments made to mitigate carbon as part of other regulatory requirements.
- Multi-State pricing - Oregon must also ensure that entities subject to compliance obligations under Oregon's proposed Clean Energy Jobs Bill will not be required to pay a carbon price for the same emission under Oregon's program as well as that of other jurisdictions.
- Establishes an auction price floor (Sec 11(1)(d))—The bill requires an auction price floor to ensure that a minimum price is achieved to help provide a market signal to encourage a shift to low carbon energy. This is an important design element that should be retained.
- What are the cost control and containment measures that can be applied? What provisions can be included to guard against bidder collusion and market manipulation, that minimize the burden of complying with program requirements, that minimize fees and program administrative costs? What are the state's administrative costs and what is the cost to link to WCI or other markets?
- What are the cost control and containment measures that can be applied? What provisions can be included to guard against bidder collusion and market manipulation, that minimize the burden of complying with program requirements, that minimize fees and program administrative costs? What are the state's administrative costs and what is the cost to link to WCI or other markets?
- Oregon should analyze and consider further limiting the use of offsets as well. We believe this will maintain opportunities for offset projects from – for example – the forestry sector to benefit rural economic development, while protecting the integrity of Oregon's program.

INVESTMENTS

- Will regulated entities have access to or compete for revenues derived from program implementation. If so, please explain.
- Allowing use of the Climate Investment Grant Program funds to reduce the upfront investment costs through a grant, low interest loan, or otherwise may allow a generator (or other industrial entity) to dramatically accelerate adoption of new technology to reduce emissions, benefitting Oregon and the planet a whole.
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Question 2: What changes would you suggest be made to cap-and-invest as it is currently being discussed to address the concerns you have?

GENERAL

- For process emissions, how do Oregon manufacturers GHG emissions compare to out-of-state manufacturers (sector specific) – both nationally and internationally?
- What other states are experiencing capital investment for manufacturing, in particular similar manufacturing process as Oregon? Similarly, what other countries are experiencing capital investment for manufacturing products also produced in Oregon? What are the emissions profiles of the states receiving increasing capital investment, including the emissions profile of the electric sectors serving those industrial loads?

- The Port recommends that the cap-and-invest program design should include an economic analysis to demonstrate there will not be adverse economic impacts over other alternatives and to identify potential impacts to at-risk and trade-dependent industries and the mechanisms for monitoring and addressing those impacts. This should include a rigorous evaluation to tailor program design alternatives to ensure Oregon's emission reduction goals are met, while ensuring the maximum achievable economic protections. Such an evaluation should identify optimum offset levels, amount of free allowances, price limits, surplus allowances, and identify the mechanism to monitor the program and make necessary adjustments once the program is implemented.

SCOPE

- Under no circumstances should any GHG emitters covered in SB 1070 (2017) be determined to be exempted from the cap-and-invest program. Additionally, the allocation of free allowances should not be codified into legislation, and instead should be determined in rule and reconsidered on a regular basis based on a consistent methodology.
- No greenhouse gas emitters within the bounds of SB 1070 can be allowed to be exempt from this program.
- The policy should consider whether there are structures that can be fairly put into place to incentivize actions by non-regulated entities that will promote overall GHG emission reductions in the state, such as through energy efficiency actions in non-regulated utility service territories. At the same time, we must be cautious of any transfer of economic benefits from customers of covered entities to customers of non-covered entities.
- Capping GHG emissions and pollution: Ensure real reductions based on best available science; actively address local and global air quality concerns.
- Covered Emissions. Should be limited to energy combustion emissions and process emissions that are reasonably able to be reduced. Food company biogenic emissions should be excluded from coverage.

EITE/LEAKAGE

- Please provide a definition for energy-intensive and trade-exposed entities. Does the definition include emissions-intensive trade exposed entities as well?
- How does California determine energy-intensive and trade-exposed businesses? In order to join the California market/program, would Oregon have the discretion to define EITE's differently?
- If EITE standards are set, they should not be "one-size-fits-all" as there are significant differences among industry sectors and within industry sectors and subsectors.
- Carbon pricing and costs of compliance must be set at a level that does not result in competitively disadvantaging companies and that minimizes leakage. This applies to covered and non-covered entities.
- Provisions that address the need for flexibility (e.g. free allowances) are necessary to prevent leakage and job loss in our manufacturing sector, and the provisions currently in SB 1070 should be retained.
- Emissions (Energy) Intensive Trade Exposed Industries**.** The food industry must be exempt or receive free allowances and these allowances or exemptions must be permanent and not expire or be reduced over time. Oregon food companies face significant competition from imported food products as well as domestic food products from areas of the U.S. that lack strict environmental regulations like those in Oregon.

- If EITE standards are set, they should not be "one-size-fits-all" as there are significant differences among industry sectors and within industry sectors and subsectors. Sectors are not homogeneous. Standards should be guidelines and determinations should be facility specific.

- Leakage**.** Carbon pricing and costs of compliance must be set at a level that does not result in competitively disadvantaging companies and that minimizes leakage. This applies to covered and non-covered entities, which are both at risk when energy prices increase, margins are slim, and costs are not readily passed on to consumers.
- Carbon Pollution Market - Section 10:
  Page 8, Line 31 – Modify (D) to read, "…to covered entities ~~*that include, but are not limited to covered entities* that are part of an emission-intensive, trade-exposed industry;~~
  Rationale: Targets allowances to the entities most exposed to leakage.
  Page 8, Line 36 – Strike ~~*three* and~~ replace with multi-.
  Rationale: Adds flexibility in the legislation to allow the state to set/modify rules as needed through time.

AUCTIONS/ALLOWANCES

- We recommend reducing some of the prescriptive language in SB 1070 around how auctions are held.
- It is not completely clear in the language of the bill what entities can voluntarily join the auction and buy allowances. While it seems reasonable to allow greenhouse gas emitters who do not meet the 25,000 ton threshold to join voluntarily, and it seems beneficial to the goals of the program to allow entities to buy allowance who might retire them rather than use them for compliance purposes, it seems questionable to allow financial institutions to enter the auction and buy allowance for speculative purposes so they can 'corner the market' on allowance, drive up prices, and resell the allowances at higher prices, to the detriment of our economy.
- The food industry must be exempt or receive free allowances and these allowances or exemptions must be permanent and not expire or be reduced over time.
- Allowances: Significantly limit free allowances; ensure direct investment to support transition of workers in impacted industries.
- Significantly limit free allowances given to EITEs. Provision of free allowances must be based on consistent, rigorous methodology and the number given freely must be reduced over the life of the program. The burden to prove trade exposure should be on the entity. No qualified entity should be exempt from the program and, under no circumstances, should free allowances be codified in legislation.

INVESTMENT

- Revenues should be used to provide incentives, tax credits and grants for companies to implement voluntary measures that reduce greenhouse gas emissions at their facilities.
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Question 3: What opportunities do you believe exist for your organization/industry/ constituents/customers from implementation of a cap-and-invest policy as it is currently being discussed in Oregon?

- Would free allowances for a covered entity include both process emissions and emissions that result from electricity/energy use?

- Can regulated entities offset their emissions using any other compliance mechanisms other than purchasing allowances?
- With funding assistance from the program, opportunities to invest in additional technologies to further lower emissions and increase the pace at which emissions are lowered.
- Further, California's cap-and-trade has earmarked money to boost alternative fuels development. There is a strong interest in the Pacific Northwest in sustainable aviation fuel but there remains a significant price gap with conventional fuels to be viable. We are intrigued by the possible opportunities created for clean fuels development by a cap and invest policy.