



State of Oregon Department of Environmental Quality

# Written Comments

## Commute Option Rulemaking 2021

### Advisory Committee Meeting 2

This document is a compilation of written comments received related to the second meeting of the advisory committee for the Commute Options 2021 Rulemaking held June 13, 2022 and a make-up meeting held on June 30, 2022.

## Comments

<b>Adriana Britton, TriMet</b> .....	<b>2</b>
<b>BreAnne Gale, City of Bend</b> .....	<b>6</b>
<b>Elizabeth Graser-Lindsey</b> .....	<b>9</b>
<b>Kathy Kleczek, NW Transportation Options</b> .....	<b>14</b>
<b>Marne Duke, Metro</b> .....	<b>15</b>
<b>Michael Harrison, OHSU</b> .....	<b>18</b>
<b>Peter Hurley, Portland Bureau of Transportation</b> .....	<b>19</b>
<b>Sharla Moffett, Oregon Business &amp; Industry</b> .....	<b>20</b>

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.oregon.gov](mailto:deqinfo@deq.oregon.gov).

**From:** [Britton, Adriana](#)  
**To:** [TripReduction2021 \\* DEQ](#)  
**Subject:** Commute Option Rules Recommendations  
**Date:** Monday, July 11, 2022 2:10:35 PM  
**Attachments:** [Random Sample Survey Instructions.pdf](#)  
[Survey Overview Brochure.pdf](#)  
[FollowUp\\_02.pdf](#)  
[Baseline survey\\_02.pdf](#)  
[Online Survey Company Registration DEQ - Fillable form 2022.pdf](#)  
[SDF - FILLABLE FORM.pdf](#)

---

Hello Karen,

Thank you so much for the opportunity to serve on the Rule Advisory Committee for the Commute Options program. Thank you for all your communications through the RAC steps.

I have had the privilege of working with employers and with DEQ staff on commute options since 2006 through my role at TriMet.

Following are overall recommendations to consider for the ECO rule implementation based on experience working with the ECO program in the Portland-Metro region since 2006.

First, a suggestion was made to eliminate or reduce the minimum survey requirement to reduce the number of ECO surveys required by an employer with the premise that employers would spend more time implementing an ECO program. In working with employers on ECO surveys since 2006, the DEQ ECO rule survey requirement is usually assigned to an employee who has other full time duties such as human resources, payroll, facilities or operations. Employers are unlikely to voluntarily dedicate their scarce resources to the ECO program. Reducing the number of surveys will result in unreliable information and won't guarantee that employers will spend time on an ECO program. However, transportation options partners have the expertise to assist employers with completing ECO survey projects that produce accurate results that can then be used to help the employer plus the data may be used by multiple agencies to improve transportation and air quality.

Consider applying the ECO rule participation more comprehensively across employers with over 100 employees for equity and to address Oregon's climate change goals. For employers who are exempt from the ECO rule because they meet other DEQ requirements or have been grandfathered in by other exemptions, establish a regular review of their reduction levels, such as every other year, to meet Oregon's climate change goals.

In expanding the ECO rule statewide, consider adjusting the ECO rule requirements and actions based on the transportation options amenities available for each attainment area. Review the availability of housing density and type, and transportation resources available in participating regions and in an employer's worksite location. For example, businesses near a

city center may have more housing units and transportation options than an industrial or rural worksite.

#### Reporting Benefits:

Improve the quality of the ECO survey reports provided to employers. Calculate pollutants saved from going into the air from the auto trip reductions plus make the information personal by providing economic savings and per mile GHG savings for the employer. Identify metrics for health savings as a result of GHG reductions, and include the results in the reports provided to employers.

The improved reporting, with better GHG information, will aid DEQ and communities in understanding the contributions of the ECO program toward the state's climate change goals and impacts on health.

#### Survey Process Improvements:

Address employers' privacy concerns related to a state-sponsored online survey tool. Some employers have conveyed concerns about employees' privacy in using the statewide commuting tool and would not use a survey provided through Oregon's commuting tool. On occasion, we've received feedback from employees who decline to take the survey because they have concerns about submitting commute information to a government agency, DEQ. We do explain survey data is provided in aggregate in a survey report.

Inform larger employers about the random sample method approved by DEQ. If implemented accordingly, the random sample method will produce accurate results with a reduced sample population, while saving time and resources. Provide an online tool, or a spreadsheet with formulas, to calculate the random sample size and provide a generator to produce the random sample list. TriMet has an instruction sheet for preparing the random sample pool. Attached is a brochure we provide based on DEQ's approved random sample method.

Our survey results are used in aggregate including reporting for federal grants, by our regional government and internally for service planning. The quality of survey data should be uniform for the ECO rule and should require a 75% response rate.

Improve the accuracy of the survey results by requiring the 75% response rate per worksite. The addition of auto trips as a penalty to complete minimum survey goals that was added in 2007 has had the adverse effect of encouraging incomplete surveys and inaccurate survey results. TriMet offers our survey application and support at no charge for employers who need to survey for DEQ. However, we use funding from a federal grant so we require complete surveys to produce accurate, complete data. TriMet's Transportation Options staff advises employers that the priority is to reach the minimum 75% survey goal for an accurate survey vs reaching the survey deadline of one week without a significant number of surveys and

unreliable data.

Our instructions for employers recommend having employees submit their names and we advise that reminders will be needed beginning on the third day of the survey because survey submissions drop off after the second day of the survey. Our survey application separates names from the trip responses. We supply a daily list of submitted names to employers so they know which employees have completed the survey and can be removed from the reminders. Please see the attached PDF, Online Survey Registration DEQ.

Updates for the DEQ ECO survey instrument:

Add questions to collect employees' interests in commute options incentives and policies. TriMet uses a baseline and a follow-up survey instrument, attached, which include incentive questions that are customized for baseline and follow-up surveys.

Address inaccurate responses to the carpool trip question so that single-passenger rideshare trips such as LIFT and Uber aren't noted as carpool trips. Clarify the definition of a carpool and that it reduces a separate trip by a person of driving age and that a carpool is not a single passenger ride with a LIFT or Uber driver. Also add a question about drop-off trips, which should be counted as an auto trip.

Collect incentive data for each surveying worksite. TriMet uses a survey data form, attached, to collect incentive data for each worksite, such as subsidies for parking, parking spaces, transit subsidies etc., which we use in offering recommendations for an employer when we send the survey results. The survey data form is completed by the employer's representative after the survey has reached the survey goal. Please see the attached PDF, SDF – Fillable Form.

Translate the DEQ survey form, and any future online survey application, into multiple languages such as Spanish, Vietnamese, Filipino, Mandarin, Ukrainian, Russian, Somali, Arabic. TriMet currently offers its paper survey instrument in English, Spanish, Vietnamese and Russian. Please contact me if you would like to receive copies of our translated survey instruments.

Please contact me if you have any questions or need more information. Thank you!

Best regards,  
Adriana

**Adriana Britton** (She/Her)

Logo



Transportation Options Coordinator  
TriMet Public Affairs Division  
1800 SW 1st Ave #300, Portland, OR 97201

Refresh your commute and WFH tips with [GetThereOregon.org](https://www.getthereoregon.org).

Starting April 22, 2022 all newly hired bus operators at TriMet will earn \$25.24 per hour to start and be eligible to receive a \$7,500 hiring bonus. More information, [here](#).

**BreAnne Gale, City of Bend**  
**Comments on Goals for Oregon Commute Options**  
**July 12, 2022**

- ***Do you have any reflections about how other jurisdictions manage employer-based commute options programs?***

Of the examples provided, the Washington state example seems most applicable and I support the parameters they have developed (100+ employees, typical commute hours, etc.). It seems a good starting point to focus on requiring planning.

- ***Any lessons from other programs you think DEQ should consider?***

Required planning and consideration of mandatory emissions reductions.

- ***What do you think is the most effective way to reduce single occupancy vehicle trips with an employer-based program in Oregon (outside of Portland metro area)?***

Single factor for a successful statewide program: An effective and single software platform that managed baseline data, employer-employee surveys and reporting, and employer reporting to the state. This is critical for the program succeed. It would make compliance and reporting more reliable and efficient.

The single requirement/strategy that would likely reduce SOV trips would be to require employers charge for employee parking using a salary/income ratio for pricing (to ensure equity) and provide free transit passes, carpool vehicles and coordination (including free carpool parking), and/or rideshare coordination.

- ***What should DEQ consider about where to require an employer-based commute program?***

The program is needed statewide and should be based on employer size (not location). Program governance and resources should also be considered.

- ***What should DEQ consider about who to require to implement an employer-based commute program?***

Probably goes without saying, but the number of employees should be the primary consideration for applicability. Additionally, type of work and work times should also be considered (i.e. typical employee start times when transit is accessible i.e. start between 6-9 AM).

- ***What should DEQ consider about what to require in an employer-based commute program?***

Access to good, reliable public transportation. Nature of jobs/shift work. Locations of employers relative to locations of employees. Equity implications to ensure employees who cannot afford to live close to work/transit and have more limited transportation options are not penalized.

## How to implement new commute option rules

- **How should DEQ consider on-going pandemic effects on workforce and employers?**

I don't know that I understand fully why this would still be considered a critical factor and would need more information to understand why.

- **Should DEQ phase in requirements?**

Yes. If the rules are rolled out statewide, they should be phased in allowing time for plans to be developed and employers to create programs and any needed capital costs required to run the program.

A possible options to phasing in the program statewide, may also be to run a pilot program first for areas over a certain population threshold in order to work out some of the kinks.

- **Should DEQ consider increasing requirements by employer characteristics? By land use/place types?**

Possibly. The most important factor here seems to be weighting the requirements for employers based on their location and proximity to good, accessible public transportation.

- **Should DEQ have criteria that transportation plans must meet?**

Yes. Baseline measurements should be required with set targets and required performance monitoring, and identified actions to achieve targets. Again, a single software platform seems critical for surveying needed to establish baselines and for reporting and monitoring progress.

- **Should DEQ require that employers offer certain incentives or combinations of incentives?**

Transit passes should be offered if paid parking is required and transit is easily accessible. Other incentives are helpful but do not seem to make a meaningful dent in mode shift (and instead seem to reward existing travel behavior – which is still good).

## How to evaluate commute option benefits to employees

- **What is the value of commute options to employees?**

Further transportation options beyond SOV trips. Provides potential amenities (showers, carpool parking, bike parking, etc.) and incentives to employees.

- **How should DEQ evaluate if the program improves mobility of all employees?**

Through annual reporting, again, a single effective software platform seems critical to measuring the success and effectiveness the program.

- **How should DEQ consider which employees are accessing the benefits? Should DEQ be concerned if some employees are subsidizing others' benefits?**

Again, this seems like it would need to be done through survey and reporting software. If “benefits” (I’m assuming this is incentives?) are option and not a program requirement, this seems to be less of a potential issue. Reporting software would help employers (and DEQ) better understand who was taking advantage of the benefits and why, and create targeted efforts/campaigns/incentives to reach employees who were not participating. Reporting software may be able to tease out what is preventing employees from participating and help to cater to those harder to reach individuals.



**From:** [Elizabeth Graser-Lindsey](#)  
**To:** [TripReduction2021 \\* DEQ](#)  
**Subject:** Comments on Second ECO RAC meeting materials  
**Date:** Thursday, June 23, 2022 7:41:25 PM

---

## **Goals for Oregon Commute Options**

### **Do you have any reflections about how other jurisdictions manage employer-based commute options programs?**

I like how the South Coast (LA) program is a mandatory emission reduction program. It makes sense for us to do a CO2 emission reduction program like the Governor's Executive Order 20-04 lays out.

### **Any lessons from other programs you think DEQ should consider?**

- The South Coast program gives employers the option of working hard to get the surveys in or to let the employer count non returns as sole occupancy trips – this gives the employer an incentive to get a high return rate.
- The South Coast program has the data associated (anonymously if desired) with individual commuters.
- The South Coast program has as an option to give cash incentives to employees.
- The South Coast program gives employers credit for incentivizing electric vehicles.
- The South Coast program does annual data collection

### **What do you think is the most effective way to reduce single occupancy vehicle trips with an employer-based program in Oregon (outside of Portland metro area)?**

A mandatory emission reduction program (inside and outside)

- with the Governor's 45% by 2035 goal
- with a small VMT fee that is applied by the employer to their incentives. The program includes the spectrum of options that can reduce emissions – employers get credit
  - for the old ECO options plus
  - adding electric cars, electric buses and car and van pools and
  - shortening the commute (moving the worksite nearer to employees like the NYT reported recently, moving employees to the worksite near their home, incentivizing employees moving

closer to work, trading employees between businesses/schools/governments/etc.)

**What should DEQ consider about *where* to require an employer-based commute program?**

Improved in Greater Portland

Other metro areas

In rural areas with some serious modifications that acknowledge the special challenges

**What should DEQ consider about *who* to require to implement an employer-based commute program?**

All shifts

All employers (all worksites). Note: The Tri-Met tax applies to all employers. My husband has been paying it as a sole proprietorship

Rural areas with serious modifications to accommodate the special challenges of longer distances, lack of options, lack of flexibility and partisan fears. For example, in Oregon and the US, most farmers are small farmers and whether farmers have farming as their primary occupation or their secondary occupation, they usually need to work off the farm to supplement their (typically low) farming income. That is, farmers are tied to a rural farm property possibly far from where they have to work off farm.

**What should DEQ consider about *what* to require in an employer-based commute program?**

The South Coast program only surveyed for a (representative-defined) week instead of two weeks. This reduction is reasonable and would allow the employer more time for more useful data.

The South Coast program is annual. An annual time frame would help Oregon move into emission reductions and program tweaks faster. It would also make employers and employees feel a sense of accomplishment.

Survey data to collect employee identifier (anonymous if desired), distance from work, mode of transportation with enough detail to get mpg equivalence, and incentive received.

Survey data from transit district – average emissions for average transit trip

(which incentivizes the transit district getting low emission vehicles), length of average transit trip and average bus occupancy (to calculate emissions for employees actual trip length.).

The raw survey data needs to be retained by the employer (or DEQ) for a period of time because the years cross compare and these comparisons make the employers' accomplishments accurate and the program's effectiveness apparent.

A former commuter who did the ECO survey asked that commuter's open-ended comments be forwarded to DEQ to benefit the program.

In the program plan, the employer incentives need to be such that they have the potential of changing employee behavior towards reduced emissions, so the incentives is data to collect about the plan.

### **How to implement new commute option rules**

#### **How should DEQ consider on-going pandemic effects on workforce and employers?**

--

#### **Should DEQ phase in requirements?**

No, this just makes things more confusing. The survey data is reasonable and a phase in would not change it. The emission reductions should be more front-loaded than back loaded which is the opposite of a phase in. Employers (at least big ones) have already been working to reduce sole-occupancy trips. Now they need to be educated to see where the program is going so they can have a strategic plan that allows emissions to go down over time. That will take a new approach so they need to think about that up front.

However, some phase may be needed for rural areas. It is hard to see how they can reduce emissions except by electric vehicles and van pools or employees being offered housing close to the farm. However, if food consumers paid a more reasonable price for their food, farmers might not need to work off the farm so much.

#### **Should DEQ consider increasing requirements by employer characteristics? By land use/place types?**

For rural employees, it is likely necessary to have lesser requirements; for urban employer's requirements can increase. (Rural employees work in urban

areas, so it is more important what the employee's place of origin is than the place of the employer, in that case).

Some employers/employees have to haul equipment on a daily basis such as trades people – carpenters, plumbers, electricians, etc. These employers/employees can't use bicycles or transit, but they can use electric vehicles and they can find clients closer to their location. Both acquiring an electric vehicle and moving of the business or the client base are slower achievements (than jumping on a bike or buying a bus ticket).

### **Should DEQ have criteria that transportation plans must meet?**

Reduce greenhouse gas emissions on the 45% by 2035 timeline as shown by survey.

Plan should look like it might work – incentives are attractive enough and the employee fee account is properly allocated to incentives to move employee behavior. If the employer doesn't reach the emission reduction goal, the incentives need to be adjusted. If the employer continues to not reach the goal, a higher VMT fee needs to be assessed to fund their program with higher incentives.

### **Should DEQ require that employers offer certain incentives or combinations of incentives?**

DEQ should require that employers have a winning combination of incentives to be measured/determined after the first year's emission reductions are compared to the goals.

### **How to evaluate commute option benefits to employees**

#### **What is the value of commute options to employees?**

Employees benefit by having a livable climate for themselves and their progeny and by having less asthma and other health costs of fossil fuel combustion. Health costs could potentially go down.

Employees benefit by having a health benefiting active commute, or a more relaxing bus commute, or a potentially shorter commute (which gives them more time for themselves and their families, easier dealing with emergencies at home, easier time getting to appointments such as to the school programs, greater sense of community/neighborhood).

Employees benefit by having their commute costs decrease.

Employees would benefit by having less roadway congestion and less roadway taxes and fees. This would improve employees' state of mind.

Employees benefit when the parking lot is less crowded and it is easier to find a space.

Employees can feel pride in a community accomplishment – reducing GHG and pollution.

**How should DEQ evaluate if the program improves mobility of all employees?**

Mobility – moving all around – is not the objective. Having access to where you need to be (where you need to work) is the objective. People accessing work is a good objective. For some low-income employees, having housing (maybe an ADU) in the wealthy area where they have work would be a good outcome, but it would not be mobility – therefore this outcome would appropriately be rewarded by the updated ECO rule as reducing VMT. A low-income employee being transferred from a distant worksite to their local worksite is also progress and would appropriately be rewarded by the updated ECO rule.

**How should DEQ consider which employees are accessing the benefits?  
Should DEQ be concerned if some employees are subsidizing others' benefits?**

Incentives Received per employee is a good survey question.

All employees benefit when all use less sole occupancy vehicles. Some employees will be subsidized more initially and others more later, because the program requires year-over-year improvements. Since the employer pays the fee/incentive, the subsidy doesn't actually belong to the employees so one employee doesn't actually subsidize another.



NW Transportation Options  
900 Marine Dr Astoria OR 97103

July 11, 2022

Dear Oregon Department of Environmental Quality,

Regarding the development of trip reduction rules for employers, I have made most of my comments during the discussion sessions. Following the last meeting I discussed potential rules with leaders in my area that work with disadvantaged populations. The primary concerns, for those in the rural region I represent, with rules being made statewide are the differences in available infrastructure. Without the readily available options for transportation choices and proximity of work, live, shopping needs, adoption of trip reduction rules would be ineffective. The concerns people have rurally is that rules designed for urban regions will be enforced on smaller developing rurally urbanized areas based on employer size without regard to what types of localized services are available. Most people I have spoken with have supported the concept of trip-reduction incentivization. The concerns repeatedly lie in the area of infrastructure to support implementation, so the rules do not become punitive with no means to provide true incentives.

Sincerely,

Kathy Kleczek,

Transportation Options Specialist  
NW Transportation Options



### Goals for Oregon Commute Options

- Do you have any reflections about how other jurisdictions manage employer-based commute options programs?
  - More prescriptive in what needs to be included in TDM plans
  - Robust programming and requirements that do not center as much on survey delivery
  - Formal support structures for programming - regulatory/programming fulfilled by different agencies, facilitated through either an MOU or required through TSP updates.
- Any lessons from other programs you think DEQ should consider?
  - Many programs do not have the enforcement agency running the TDM and supportive programming.
  - Have opportunities for public/private partnerships, such as decision-making boards
  - Include multiple agencies in delivery, decision-making, reporting and evaluation
  - Have easily digestible public reports
- What do you think is the most effective way to reduce single occupancy vehicle trips with an employer-based program in Oregon (outside of Portland metro area)?
  - Offering an incentive to use travel options, coupled with limited parking, is the most proven approach to reduce SOV trips.
  - Making other modes more cost effective and convenient than driving alone. It's a combination of levers, it's never just one thing.
- What should DEQ consider about *where* to require an employer-based commute program?
  - In the Portland metro region, there should be varying degrees of what an employer must offer depending on their location and availability of services. More details below.
- What should DEQ consider about *who* to require to implement an employer-based commute program?
  - The current standard of 100 is arbitrary but could be used as a baseline. Metro/ODOT will be setting up a structure to have TMA services in areas that are densely populated/high employment/equity focus area/high transit services and these areas could have a lower number standard, such as 50.
  - Access to frequent service and other amenities should be a consideration.
  - Exemptions should be limited.
- What should DEQ consider about *what* to require in an employer-based commute program?
  - Update vehicle mile reduction targets to reflect regional climate targets and set interim targets that step toward 2025, 2030, 2035 and 2050 targets. **Targets should be progressive**, i.e. increase slightly each year and aligned with adopted targets.
  - This should be a menu of options available to employers but vary depending on **location/zone**. See below for more details on thoughts, but the basics are:
    - TDM plan
    - ETC coordinator
    - Biennial survey and reporting

**Commented [MD1]:** we are answering this from a perspective of our own regional needs. I know there was quite a bit of discussion on where else in the state ECO might be implemented, while we are interested, we are not making any kind of formal comment on those decisions.

**Commented [MD2]:** do we have maps as part of the RTP that could categorize an employer and location? For instance, DEQ offices are in Lloyd and they do not offer transit passes to employees. In turn, they should have to basically have to offer every other type of incentive since they don't.

**Commented [MD3R2]:** Metro tool - economic value atlas. Used in RFFA analysis. compilation of existing data sources

**Commented [MD4]:** find places to include parking

### How to implement new **commute** option rules

- How should DEQ consider on-going pandemic effects on workforce and employers?
  - Special incentives for front line and essential workers
    - WTA has an excellent model for this work. Would require local agencies to host an incentive program.
    - If a local jurisdiction or agency is implementing incentive programs, they should consider these audiences as part of an equity focus area.

- Need to reconsider the role of hybrid work in assessing the number of employees at a worksite.
  - Washington state has addressed this and focuses on the number of staff that report to a site or have that site available to them.
  - Hybrid work – how do we give credit to that within TDM plans, and not de-incentivize universal pass. There is potential for a worksite to fulfill their TDM requirements with hybrid work only, and then not serve benefits to staff that come to worksites, often because they are required.
- Should DEQ phase in requirements?
  - We feel it is necessary to phase in requirements in the Metro region over a two-year time period, with full implementation by the beginning of the Metro/ODOT grant cycle to begin July 2025.
- Should DEQ consider increasing requirements by employer characteristics? By land use/place types?
  - In keeping with goals set in EO 20-04, align ECO targets with each MPO's greenhouse gas reduction targets.
  - An MPO, together with a regional board or partners, can determine areas of focus that would require increased requirements, with a careful eye to not disincentivize density and growth.
  - Special programming could be made available for employment sites with shift workers
  - Using existing collected data through Metro tools such as the Economic Value Atlas <https://evatool.oregonmetro.gov/> can work with partners to create zones. Within these zones there could be variables for:
    - Number of employees required for rule threshold
    - Required TDM interventions. For example; if an employer is in the Lloyd district or downtown, they might be required to offer transit incentives.
- Should DEQ have criteria that transportation plans must meet?
  - Employer plans must be developed to include TDM strategies that are proven to reduce VMT sufficiently enough to achieve targets (including, but not limited to parking pricing, financial incentives, information & encouragement, on-site infrastructure, and a designated Employee Transportation Coordinator).
    - To support these decisions, allow for State and/or Regional ECO Boards, led by affected MPO's and composed of local jurisdictions, travel options stakeholders and members of the business community. Boards can act as a transparent, coordinated forum for problem solving, accountability and growth.
  - Each Employer Plan must demonstrate how the selected TDM strategies will contribute to advancing their VMT targets.
  - Each MPO/ City/ State (or TDM board) should establish a pre-approved plan template for employers who don't want to develop a unique plan.
- Should DEQ require that employers offer certain incentives or combinations of incentives?
  - We need to be clearer about what incentives are. Currently the rule says they must offer incentives and we should look at historically what that has meant. I believe this question is asking should an employer be required to offer a commute benefit incentive, such as free/reduced transit passes. See above, incentives should align with regional and corridor/campus goals.



#### How to evaluate commute option benefits to employees

- What is the value of commute options to employees?
- How should DEQ evaluate if the program improves mobility of all employees?
  - Allow for data management (at the very least easy access to current data) at the local level, ensuring programming that supports ECO can adjust based on collected annual survey data.
  - Lowering required survey response rates to between 60-70% could help ETC's focus on TDM goals, and less on survey administration and compliance, while providing accurate data.
  - Non-punitive incentives should be employed to increase survey participation, including standardizing the survey and ensuring all ECO sites have assistance with administration, and ETC incentive and recognition programs.
  - By allowing for a local lead with the authority to manage programming, data collection and analysis, DEQ and partners can build a reporting structure that results in data that increase transparency and accountability and lead to data-based program improvements. A structure could see survey data travel from employers, to local program managers (such as a TMA or jurisdiction), to Metro or ODOT for analysis and then reported to DEQ. This can greatly ease the burden on DEQ to meet reporting requirements that will inevitably be associated with EO 20-04. Currently data is given to DEQ and not readily available to program leads.
  - Develop biannual state, regional, and local performance reporting structure.
  - To strengthen reporting, require annual employer performance reporting until an employer has consistently met or exceeded VMR targets.
  - Ensure that employers adhere to a "good faith" standard of fully implementing all elements in their approved plan that they will be considered in compliance with ECO rules, even if they do not achieve VMR targets. This would include annual reporting on the implementation for each element in an employer's plan.
- How should DEQ consider which employees are accessing the benefits?
  - All employees should be able to access the benefits, although they may not all take advantage of those benefits.
- Should DEQ be concerned if some employees are subsidizing others' benefits?
  - Employees subsidize their fellow workers' benefits all the time. All benefits are available to all employees, but their circumstances will factor into whether they utilize them. This is how health benefits, etc work.

**From:** [Michael Harrison](#)  
**To:** [TripReduction2021 \\* DEQ](#)  
**Subject:** Answers to Questions for Committee  
**Date:** Tuesday, July 5, 2022 1:40:16 PM

---

### Goals for Oregon Commute Options

- Do you have any reflections about how other jurisdictions manage employer-based commute options programs? **Washington Commute Reduction tool is a good model.**
- Any lessons from other programs you think DEQ should consider? **Mandating some specific actions on behalf of employers is a good idea (see some ideas below).**
- What do you think is the most effective way to reduce single occupancy vehicle trips with an employer-based program in Oregon (outside of Portland metro area)? **Employers should have some financial incentive to offer successful programs. The options to not drive (free transit passes, access to bike, etc.) should be as attractive as the option to drive (paid parking)**
- What should DEQ consider about *where* to require an employer-based commute program? **Some particularly rural areas might need an exemption, while areas like Bend, Eugene, Salem, etc. should have these programs.**
- What should DEQ consider about *who* to require to implement an employer-based commute program? **100 employee threshold seems to make sense.**
- What should DEQ consider about *what* to require in an employer-based commute program? **If free parking is provided, then transit passes should be available for free to employees. Or pay a fee into the program to be used by a third party to encourage / facilitate better mode splits in the geographic area.**

### How to implement new commute option rules

- How should DEQ consider on-going pandemic effects on workforce and employers? **A year or two grace period should be provided to help employers adjust to a hopefully post-pandemic reality.**
- Should DEQ phase in requirements? **Unsure.**
- Should DEQ consider increasing requirements by employer characteristics? By land use/place types? **Could be explored – some types of workplace and some locations are more amenable to alternative forms of transportation.**
- Should DEQ have criteria that transportation plans must meet? **Yes.**
- Should DEQ require that employers offer certain incentives or combinations of incentives? **A menu of options, needing to offer a certain number or value of incentives gives needed flexibility.**

### How to evaluate commute option benefits to employees

- What is the value of commute options to employees? **Many employees really enjoy using alternative modes of transportation and appreciate when their employer helps facilitate it.**
- How should DEQ evaluate if the program improves mobility of all employees? **A more robust survey would be helpful – did commute times improve, how did employees feel about the safety of their commute, etc.**
- How should DEQ consider which employees are accessing the benefits? Should DEQ be concerned if some employees are subsidizing others' benefits? **No.**

**From:** [Hurley, Peter](#)  
**To:** [TripReduction2021 \\* DEQ](#)  
**Cc:** [Hormann, Liz](#); [Cohen, Shoshana](#); [Hesse, Eric](#)  
**Subject:** PBOT Comments on RAC Meeting #2  
**Date:** Monday, July 11, 2022 5:16:28 PM

---

Hello, Karen and Gerik,

We thank you for the opportunity to provide comments on the previous RAC meeting. The meeting was well structured and informative.

Of the four comments below, the first applies statewide, since CFEC rules focus on reducing VMT statewide, albeit primarily inside MPOs, therefore collecting VMT data in the employer survey should apply statewide.

The next three comments are specific to the commute options program in the Metro region, so may or may not all be appropriate for other MPOs and other parts of the state.

These comments are in addition to the joint PBOT/Metro letter that we provided prior to the start of the RAC. Please let me know if those comments are already in the record or if we need to resubmit them.

1. We support adding VMT question(s) to the survey, especially if we're creating new VMT reduction targets to align with the Climate Friendly & Equitable Community (CFEC) VMT reduction targets;
2. We support eliminating the current exemptions for air quality permittees (reducing other pollutants doesn't necessarily reduce GHG or VMT) and employers providing only transit pass subsidies, which in some areas has been insufficient to reduce the percentage of drive alone trips, especially when an area or an employer also provides free parking;
3. We support adding on-site contractors working at the site for more than a specific time to the definition of "employees" covered by ECO requirements;
4. We support DEQ and/or MPOs providing regular (annual or biennial) performance reports. I'll note that there was quite a bit of support from RAC members for this in RAC #1.

We'd be happy to answer any questions. Thank you for the consideration of our comments.

Best,

Peter

Peter Hurley  
Senior Transportation Policy Planner  
Portland Bureau of Transportation  
[www.portlandoregon.gov/transportation](http://www.portlandoregon.gov/transportation)

---

---

July 13, 2022

Karen Williams  
Department of Environmental Quality  
700 NE Multnomah Suite 600  
Portland OR 97232

Dear Ms. Williams:

On behalf of Oregon Business & Industry, I am submitting the following comments on the Department of Environmental Quality's Employee Commute Option Rulemaking Meeting 2. Oregon Business & Industry (OBI) is a statewide general business association representing 1,600 members who collectively employ more than 250,000 Oregonians in a wide variety of sectors and from all parts of our state. Thank you for the opportunity to comment on the materials and suggestions provided at the June RAC meeting.

### **Challenges with the Rulemaking Overall**

In general, DEQ is tackling many moving parts in updating the Employee Commute Options rule without what appears to be enough information and potentially without other programs that can support a more expansive ECO program. Answering the question "where, who and what should be regulated in the program" is difficult without a broader context of what tools will be available for businesses to utilize when we are talking about very different types of businesses in parts of the state that may lack sufficient access to more traditional commute options like bike, pedestrian or transit. All businesses want to comply with regulatory programs, but employers, and particularly those without telecommuting options, will need tools beyond these traditional commute options to comply.

We would like to see updates to the ECO program take a more incremental approach and update the program again in 5-10 years rather than attempt to establish an ambitious 20-year program without the tools available to employers to successfully implement it. DEQ initiates a lot of rulemaking and it should be reasonable for the agency to regularly update the program in a way that takes a few bites at the apple rather than attempting to eat the apple in one bite. Taking a more moderate and iterative approach is particularly important if DEQ is considering increasing the commute reduction targets.

### **RESPONSES TO ISSUES RAISED IN THE RAC MEETING**

#### **Employers Should Not Be Required to Cover Contractors in their Commute Plans**

It was suggested that employers cover contract employees in their commute plans since many utilize a significant number of contractors to carry out work tasks and achieve business goals. Requiring contractors to be covered by the commute plan would blur basic lines of the employment relationship and could potentially invite protracted debate around the definition of employee or even legal challenges.

Beyond the questionable legal issues around covering contractors in a commute plan, contractors are fundamentally different than employees and are often only contracted for a few

days to a few months for project work. Would all contractors need to be covered or would there be a threshold contract length? What should the threshold length be? How frequently would employers need to survey to account for contractors? How often would commute plans need to be updated?

A requirement to cover contractors is fraught with challenges and raises major questions around practicality and feasibility.

### **Mandating That All Air Quality Permit Holders Participate Will Not Be Effective**

DEQ raised the possibility of requiring all air quality permit holders to be subject to the ECO program. The more important question is: would this be effective in achieving a substantial reduction of commute trips? Of DEQ's three dozen or so air quality permit types, there are roughly 2,500 facilities with state-issued air quality permits. Nearly 1,200 of these are gas dispensing facilities. Gas dispensing businesses typically do not have a large number of employees and they are dispersed throughout the state including places like along interstates and in small communities generally not served by transit nor easily accessible by bike/pedestrian options.

Looking at other permit categories, there are dozens of auto body shops with Basic Air Contaminant Discharge Permits (ACDP). There are many General ACDP types including crematories, dry cleaners grain elevators, and seed cleaning operations that also are not a good fit for commute option programs due to small numbers of employees. There are many other examples that illustrate the point that these are generally not businesses that would have 1) a significant number of employees at a single worksite and/or 2) worksites with reasonable access to bike, pedestrian or transit options to get to work and/or 3) a significant number of jobs available that would enable employees to telecommute or work a condensed schedule.

While some permittees are of substantial size and may even be located in a population center, manufacturing and heavy industrial businesses usually have early shift work ruling out transit as a possibility (see OBI's comments on RAC Meeting 1), they are often located in areas that lack good transit access, and the vast majority of employees must be onsite to carry out their work.

Finally, mandating that permit holders be subject to the ECO program is unfair and inconsistent with other regulatory programs. Heavy industrial businesses are usually intentionally sited in areas that are not in close proximity to urban cores and are, therefore, not convenient to bike/pedestrian options or transit hubs. Cleaner Air Oregon (CAO), a human health risk-based regulatory program, was specifically designed to assess impacts to those living closest to facilities to protect vulnerable populations like children. Air modeling required by CAO must assess cancer and non-cancer risks to the closest receptor – essentially it must analyze the health risk to a person standing just outside a facility's fence for 70 years. Air permits and programs like the Climate Protection Program currently require, or shortly will require, specific provisions that protect environmental justice communities including people of color, tribal communities, coastal and rural communities. So, while on one hand, DEQ's regulatory programs penalize facilities with proximity to population centers, it is simultaneously proposing that these very facilities, with the least access to bike/pedestrian options or transit hubs, be automatically subject to the ECO program. This sets up basic conflicts between regulatory

programs and would make it very difficult, if not impossible, for air quality permittees to be compliant.

### **Relocating Businesses Closer to Employees Is Not a Practical Solution**

During the June 13 meeting, a few RAC members suggested that businesses should relocate to be closer to their employees to reduce commuting. This assumes that an employer's workforce is concentrated in a discreet area and that relocating would increase the viability of offering particular commute options. This raises questions like, "which employees should an employer relocate closer to?" How does relocation impact an employer's other existing employees? There are reasons why certain businesses are located where they are including access to raw materials, access to transportation routes like ports and interstates, access to markets and many others. Relocating businesses is a major cost and cost prohibitive for certain facilities, like manufacturers whose plants are valued in tens of millions of dollars or more. For other businesses, relocation would not make sense given that a large proportion of their workforce continues to engage in remote work. Relocation must comport with business plans and dozens of other factors that do not make this a viable option for most employers.

We would also note that, in fact, businesses are moving in great numbers out of downtown Portland. It has been reported that there are 12 office buildings for sale downtown due to vacancies. In addition to high telecommuting as a result of the pandemic, violence, trash and open drug use are driving employers from downtown because their employees don't want to travel into downtown. Many downtown-based employers also report that recruiting employees to relocate to Portland has become more challenging.

The unfortunate result is that businesses may choose to relocate to suburbs where access to transit is diminished in comparison to downtown. It is important to note that the exodus from downtown is likely to exacerbate urban sprawl, which Oregon's land use laws have tried to minimize for decades. The irony is that it is beneficial to have employment opportunities concentrated in areas like downtown Portland, because it draws transit investment and other infrastructure that can support commute reduction.

As we stated in our comments on RAC Meeting 1, the affordable housing crisis is having significant impacts on where people live. Despite the good, family-wage jobs provided by many employers, many employees still cannot afford the high cost of housing close to the urban core. People are looking further from urban centers to find affordable housing, which increases commuting. We also see business relocation as creating a negative domino effect. In addition to exacerbating sprawl, the more businesses that relocate outside of urban centers, the more likely it is that these will themselves become new urban centers. While we need to be thinking of creative solutions to commute reduction, it is critical that we are thinking through *all* the impacts of our recommendations and decisions.

## **RESPONSES TO QUESTIONS**

## **Reflections on Commute Options Programs in Other Jurisdictions**

Reviewing commute options in other jurisdictions is a worthwhile exercise and we appreciate the information DEQ gathered on other existing programs. While some of these may provide creative options for reducing employee commutes that could be included in the program, DEQ and the RAC need to carefully consider that what is workable for other jurisdictions may not be feasible in Oregon and particularly in the jurisdictions that will be new to the program.

While other jurisdictions have commute option requirements, they specifically exempt employers that are not located in transit hubs. Washington's program, for example, does not require businesses to participate that are not near transit hubs. This is the type of common-sense approach that Oregon should model its program after so that employers truly have the options they need to entice their employees to utilize commute options.

### **Where to Require ECO?**

In our initial statement about the difficulties of deciding the where, who and what to regulate without more information and a better understanding of the resources available to employers, particularly when many areas are not served by good bike/ped/transit options. The *idea* of including large areas like Metropolitan Planning Organization (MPO) boundaries or Urban Growth Boundaries (UGB) is a nice one, but we are struggling to see the reality of how employers significantly outside city limits could access sufficient tools to implement even a marginally effective program. What we need to hear from DEQ is what options would be available to an employer in a MPO that 1) has zero or poor transit access 2) has poor bike/ped access that is also safe 3) has employees that must be onsite?

Again, using the Washington example, the program requires only businesses with proximity to transit hubs to participate. This means that, in Seattle, businesses like Microsoft are required to participate in the program, while heavy industrial businesses located near the port are not.

### **How Should the Rule Consider the Impacts of COVID-19 on Employers?**

The COVID-19 pandemic created a sea change for employers around the world, many businesses did not survive the pandemic, and many others are still trying to recover. The pandemic created supply chain shortages, workplace and workflow disruptions as employers implemented practices to keep their employees safe, shipping delays, market volatility, and businesses are now coping with acute workforce shortages, skyrocketing inflation and major increases in fuel and shipping costs. The rule must absolutely consider the pandemic's impacts on businesses, which will likely last for years.

To that end, many businesses that employ office-type employees continue to utilize telecommuting as a primary or significant work option. For this reason, it will be difficult to establish commute baselines particularly for employers new to the program. We would suggest that a straight trip reduction target, rather than a baseline, be utilized to ensure that employers have a level playing field whether they are new to the program or have participated in the program for many years.

Finally, as we stated in previous comments, the number one issue Oregon employers are facing are workforce shortages, but many are also still trying to recover from the very serious impacts

of the pandemic while also complying with a whole host of new regulatory burdens. New rules should not add to the significant challenges businesses are confronting and should carefully consider what is reasonable and realistic given these challenges.

**The “Good Faith Effort” Compliance Threshold Should Be Retained**

Retaining the “good faith effort” compliance threshold is critical to helping to level the playing field for different types of businesses. Suggestions about point systems that offer more credit for certain types of commute options makes the program unnecessarily complex and could reward or penalize employers for factors over which they have no control. Transit pass incentives can be offered to employees but make little sense if businesses are not located close to transit hubs as the transit incentives are unlikely to be utilized.

**Conclusion**

The ECO program has been successfully implemented by some employers, while others struggle to achieve their trip reduction targets due to a lack of options that fit well with certain business types. Maintaining the simplicity of the program without overly burdensome mandates and complex requirements is critical. The program must also factor in many of the limitations enumerated in our previous comments such as COVID-19 considerations, the affordable housing crisis that is resulting in increased commuting, workforce shortages, limited schedules for transit agencies that are also experiencing workforce shortages, transit safety and many others.

OBI looks forward to continued participation in the rulemaking. Please contact me should you have questions about our comments.

Sincerely,



Sharla Moffett  
Director  
Energy, Environment, Natural Resources & Infrastructure