

HB 2020-68  
(LC 894)  
4/17/19  
(MAM/RLM/ps)

Requested by Senator BENTZ

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2020**

- 1 On page 8 of the printed bill, line 25, delete “18” and insert “18d”.
- 2 On page 10, line 16, after “18” insert “to 18d”.
- 3 On page 11, line 18, delete “section 18” and insert “sections 18 to 18d”.
- 4 In line 25, delete “section 18 (6) and (7)” and insert “sections 18a (2) and  
5 18c (6)”.
- 6 On page 13, delete lines 5 through 45 and delete pages 14 and 15.
- 7 On page 16, delete lines 1 through 22 and insert:
- 8 **“SECTION 18. Definitions. As used in sections 18a to 18d of this 2019**  
9 **Act:**
- 10 **“(1) ‘Best available technology’ means the technology that will most**  
11 **efficiently reduce the greenhouse gas emissions associated with the**  
12 **manufacture of a good, without changing the characteristics of the**  
13 **good being manufactured, that is technically feasible, commercially**  
14 **available, economically viable and compliant with all applicable laws.**
- 15 **“(2) ‘EITE entity’ means a covered entity or an opt-in entity that**  
16 **is engaged in the manufacture of goods through one or more**  
17 **emissions-intensive, trade-exposed processes, as further designated by**  
18 **the Carbon Policy Office pursuant to section 18a of this 2019 Act.**
- 19 **“SECTION 18a. Designation of covered entities and opt-in entities**  
20 **engaged in emissions-intensive, trade-exposed processes as EITE enti-**  
21 **ties. (1) The Carbon Policy Office shall designate a covered entity or**

1 **opt-in entity as an EITE entity, if the covered entity or opt-in entity**  
2 **is a person in control of an air contamination source and is engaged,**  
3 **as of the operative date of this section, in the manufacture of goods**  
4 **through one or more of the following emissions-intensive, trade-**  
5 **exposed processes, as identified by industry group and code in the**  
6 **North American Industry Classification System:**

7 **“(a) Sawmills and Wood Preservation, code 3211.**

8 **“(b) Veneer, Plywood, and Engineered Wood Product Manufactur-**  
9 **ing, code 3212.**

10 **“(c) Cement and Concrete Product Manufacturing, code 3273.**

11 **“(d) Fruit and Vegetable Preserving and Specialty Food Manufac-**  
12 **turing, code 3114.**

13 **“(e) Iron and Steel Mills and Ferroalloy Manufacturing, code 3311.**

14 **“(f) Basic Chemical Manufacturing, code 3251.**

15 **“(g) Plastics Product Manufacturing, code 3261.**

16 **“(h) Other Nonmetallic Mineral Product Manufacturing, code 3279.**

17 **“(i) Glass and Glass Product Manufacturing, code 3272.**

18 **“(j) Lime and Gypsum Product Manufacturing, code 3274.**

19 **“(k) Pulp, Paper, and Paperboard Mills, code 3221.**

20 **“(L) Semiconductor and Other Electronic Component Manufactur-**  
21 **ing, code 3344.**

22 **“(m) Foundries, code 3315.**

23 **“(2)(a) The Director of the Carbon Policy Office shall adopt by rule**  
24 **a process for designating as an EITE entity a covered entity or opt-in**  
25 **entity that:**

26 **“(A) Begins manufacturing a good or goods in this state after the**  
27 **operative date of this section through an emissions-intensive, trade-**  
28 **exposed process listed in subsection (1) of this section; or**

29 **“(B) Manufactures a good or goods through a process not listed in**  
30 **subsection (1) of this section that the director, by rule, identifies as**

1 an emissions-intensive, trade-exposed process.

2 “(b) The director shall hire or contract with a third-party organ-  
3 ization to assist the office in gathering data and conducting analyses  
4 as necessary to assist the director in carrying out the process required  
5 by this subsection.

6 “(c) Rules adopted under this subsection may allow for the office  
7 to assign a good manufactured by a covered entity or opt-in entity  
8 designated as an EITE entity pursuant to this subsection a temporary  
9 benchmark, consistent with the processes for calculating benchmarks  
10 under section 18c of this 2019 Act, and to adjust the temporary  
11 benchmark after the close of the first compliance period for which the  
12 EITE entity must fulfill a compliance obligation.

13 “(3) A covered entity or opt-in entity that is a fossil fuel distrib-  
14 ution and storage facility or infrastructure, or an electric generating  
15 unit, may not be designated as an EITE entity and may not receive  
16 allowances at no cost under section 18c of this 2019 Act.

17 “SECTION 18b. Leakage risk study. (1) No later than September 15,  
18 2021, the Carbon Policy Office shall complete a study on the leakage  
19 risk of air contamination sources in this state that report annual  
20 verified anthropogenic greenhouse gas emissions under ORS 468A.280  
21 of between 10,000 and 25,000 metric tons of carbon dioxide equivalent.

22 “(2) The purpose of the study shall be to evaluate the emissions  
23 intensiveness and trade exposure of the air contamination sources  
24 described in subsection (1) of this section and to aid the office in im-  
25 plementing the process for designation of EITE entities adopted by  
26 rule under section 18a (2) of this 2019 Act.

27 “(3) The office shall provide a report on the study to the Joint  
28 Committee on Climate Action in the manner provided in ORS 192.245.

29 “SECTION 18c. Direct distribution of allowances for EITE entities.

30 (1) The annual allocation of allowances for direct distribution at no

1 cost to an EITE entity shall be a number of allowances equal to the  
2 sum total of the annual good-specific emissions calculations for the  
3 goods manufactured by the EITE entity.

4 “(2) The annual good-specific emissions calculation for a good  
5 manufactured by an EITE entity shall be the product of:

6 “(a) The applicable benchmark for the good pursuant to subsection  
7 (3) or (4) of this section; and

8 “(b) The EITE entity’s output of the good during the calendar year  
9 prior to the calendar year in which the annual allocation of allowances  
10 will be directly distributed.

11 “(3) For the calendar years beginning in 2021 and for each following  
12 year until and including 2023, the Carbon Policy Office shall calculate  
13 and apply a facility benchmark for each good manufactured in this  
14 state by each EITE entity by:

15 “(a) Calculating the three-year average of the total, expressed in  
16 metric tons of carbon dioxide equivalent, of anthropogenic greenhouse  
17 gas emissions attributable to manufacture of the good in this state  
18 each year by the EITE entity, using anthropogenic greenhouse gas  
19 emissions information from the three most recent years prior to 2021  
20 for which verified anthropogenic greenhouse gas emissions informa-  
21 tion is available and verified by the office; and

22 “(b) Dividing the number calculated under paragraph (a) of this  
23 subsection by the three-year average of the total annual output of the  
24 good in this state by the EITE entity, using output data from the three  
25 most recent years prior to 2021.

26 “(4)(a) Beginning in 2024 and for each following year until and in-  
27 cluding 2050, the office shall apply a best available technology  
28 benchmark for each good manufactured in this state by each EITE  
29 entity. The office shall first adopt best available technology  
30 benchmarks for goods manufactured in this state by EITE entities no

1 later than January 1, 2024, and shall update the best available tech-  
2 nology benchmarks once every six years. Each best available technol-  
3 ogy benchmark must represent the anthropogenic greenhouse gas  
4 emissions that would be attributable to manufacture of the good in  
5 this state by the EITE entity if the EITE entity were to use the best  
6 available technology as of the date that the benchmark was last up-  
7 dated.

8 “(b) In adopting the best available technology benchmark for a good  
9 manufactured by an EITE entity, the office may review and consider  
10 emissions intensity audit reports specific to the EITE entity and that  
11 are produced by qualified, independent third-party organizations.

12 “(c) An EITE entity may submit to the office, for consideration in  
13 adopting best available technology benchmarks, an emissions intensity  
14 audit report produced by a qualified, independent third-party organ-  
15 ization. The audit report must:

16 “(A) Include an analysis of the current technologies, equipment and  
17 processes used to manufacture each good at the EITE entity’s facility  
18 and the resulting emissions intensity per unit of output for each good  
19 manufactured by the EITE entity.

20 “(B) Include an analysis of the best available technology to produce  
21 the goods manufactured by the EITE entity and the resulting emis-  
22 sions intensity per unit of output for each good if best available tech-  
23 nology were used at the EITE entity’s facility. The analysis required  
24 by this subparagraph must take into consideration, to the greatest  
25 extent practical:

26 “(i) The fuels, processes, equipment and technology used by facili-  
27 ties in this state or in other jurisdictions to produce goods of compa-  
28 rable type, use or quality; and

29 “(ii) Any barriers that would prevent adoption of the best available  
30 technology by the EITE entity’s facility.

1       “(C) Based on the analyses required under subparagraphs (A) and  
2 (B) of this paragraph, provide an estimate of the emissions intensity  
3 per unit of output to produce the same goods at the same facility if  
4 the facility used the best available technology.

5       “(5) In order to implement subsections (3) and (4) of this section,  
6 the Director of the Carbon Policy Office shall adopt by rule:

7       “(a) A means for attributing an EITE entity’s anthropogenic  
8 greenhouse gas emissions to the manufacture of individual goods; and

9       “(b) Requirements for EITE entities to provide any pertinent re-  
10 cords necessary for the office to verify the output data used to calcu-  
11 late benchmarks pursuant to this section.

12       “(6) The director shall adopt by rule a process for EITE entities to  
13 apply to the office for an adjustment to the allocation of allowances  
14 for direct distribution at no cost that the EITE entity may receive.  
15 The office may grant an adjustment only for a significant unantic-  
16 ipated change in the greenhouse gas emissions attributable to the  
17 manufacture of an individual good or goods in this state by the EITE  
18 entity, based on a finding by the office that the adjustment is neces-  
19 sary to accommodate changes to the manufacturing process that have  
20 a material impact on greenhouse gas emissions. Rules adopted under  
21 this subsection may provide for the director to contract with an ex-  
22 ternal third-party expert to assist the office in making individual de-  
23 terminations on applications for adjustments.

24       “SECTION 18d. Benchmark report. No later than September 15,  
25 2030, the Carbon Policy Office shall provide a report to the Joint  
26 Committee on Climate Action, in the manner provided in ORS 192.245,  
27 on the benchmarks established pursuant to section 18c of this 2019 Act.  
28 The report may include recommendations for legislation. The report  
29 shall assess:

30       “(1) The emissions intensity and trade exposure of covered entities

1 and opt-in entities that have been designated as EITE entities pursu-  
2 ant to section 18a of this 2019 Act;

3 “(2) The emissions reduction opportunities available to the covered  
4 entities and opt-in entities described in subsection (1) of this section;  
5 and

6 “(3) Whether the conclusions of the assessments required under  
7 subsections (1) and (2) of this section warrant an adjustment to the  
8 methods of calculating benchmarks developed pursuant to section 18c  
9 of this 2019 Act.”.

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