

Requested by Senator BENTZ

**PROPOSED AMENDMENTS TO
HOUSE BILL 2020**

1 On page 13 of the printed bill, delete lines 5 through 45 and delete pages
2 14 and 15.

3 On page 16, delete lines 1 through 22 and insert:

4 **“SECTION 18. As used in sections 18a to 18d of this 2019 Act:**

5 **“(1) ‘Best available technology’ means the technology that will most**
6 **efficiently reduce the greenhouse gas emissions associated with the**
7 **manufacture of a good, without changing the characteristics of the**
8 **good being manufactured, that is technically feasible, commercially**
9 **available, economically viable and compliant with all applicable laws.**

10 **“(2) ‘EITE entity’ means a covered entity or an opt-in entity that**
11 **is engaged in the manufacture of goods through one or more**
12 **emissions-intensive, trade-exposed processes, as further designated by**
13 **the Carbon Policy Office pursuant to section 18a of this 2019 Act.**

14 **“SECTION 18a. Designation of covered entities and opt-in entities**
15 **engaged in emissions-intensive, trade-exposed processes as EITE enti-**
16 **ties. (1) The Carbon Policy Office shall designate a covered entity or**
17 **opt-in entity as an EITE entity, if the covered entity or opt-in entity**
18 **is a person in control of an air contamination source and is engaged,**
19 **as of the operative date of this section, in the manufacture of goods**
20 **through one or more of the following emissions-intensive, trade-**
21 **exposed processes, as identified by industry group and code in the**

1 **North American Industry Classification System:**

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

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

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

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

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

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

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

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

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

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

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

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

17 **“(m) Foundries, code 3315.**

18 **“(n) Nonmetallic Mineral Mining and Quarrying, code 2123.**

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

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

25 **“(B) Manufactures a good or goods through a process not listed in**
26 **subsection (1) of this section that the director, by rule, identifies as**
27 **an emissions-intensive, trade-exposed process.**

28 **“(b) The director shall hire or contract with a third-party organ-**
29 **ization to assist the office in gathering data and conducting analyses**
30 **as necessary to assist the director in carrying out the process required**

1 by this subsection.

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

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

13 “SECTION 18b. Leakage risk study. (1) No later than September 15,
14 2021, the Carbon Policy Office shall complete a study on the leakage
15 risk of air contamination sources in this state that report annual
16 verified anthropogenic greenhouse gas emissions under ORS 468A.280
17 of between 10,000 and 25,000 metric tons of carbon dioxide equivalent.

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

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

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

26 (1) The annual allocation of allowances for direct distribution at no
27 cost to an EITE entity shall be a number of allowances equal to the
28 sum total of the annual good-specific emissions calculations for the
29 goods manufactured by the EITE entity, multiplied by 95 percent.

30 “(2) The annual good-specific emissions calculation for a good

1 **manufactured by an EITE entity shall be the product of:**

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

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

7 **“(3) For the calendar years beginning in 2021 and for each following**
8 **year until and including 2026, the Carbon Policy Office shall calculate**
9 **and apply a facility benchmark for each good manufactured in this**
10 **state by each EITE entity by:**

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

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

22 **“(4)(a) Beginning in 2027 and for each following year until and in-**
23 **cluding 2050, the office shall apply a best available technology**
24 **benchmark for each good manufactured in this state by each EITE**
25 **entity. The office shall first adopt best available technology**
26 **benchmarks for goods manufactured in this state by EITE entities no**
27 **later than January 1, 2027, and shall update the best available tech-**
28 **nology benchmarks once every six years. Each best available technol-**
29 **ogy benchmark must represent the anthropogenic greenhouse gas**
30 **emissions that would be attributable to manufacture of the good in**

1 this state by the EITE entity if the EITE entity were to use the best
2 available technology as of the date that the benchmark was last up-
3 dated.

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

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

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

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

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

25 “(ii) Any barriers that would prevent adoption of the best available
26 technology by the EITE entity’s facility; and

27 “(iii) Any indirect energy or environmental impacts associated with
28 a technology under consideration for best available technology.

29 “(C) Based on the analyses required under subparagraphs (A) and
30 (B) of this paragraph, provide an estimate of the emissions intensity

1 per unit of output to produce the same goods at the same facility if
2 the facility used the best available technology.

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

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

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

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

22 “SECTION 18d. Benchmark report. No later than September 15,
23 2030, the Carbon Policy Office shall provide a report to the Joint
24 Committee on Climate Action, in the manner provided in ORS 192.245,
25 on the benchmarks established pursuant to section 18c of this 2019 Act.
26 The report may include recommendations for legislation. The report
27 shall assess:

28 “(1) The emissions intensity and trade exposure of covered entities
29 and opt-in entities that have been designated as EITE entities pursu-
30 ant to section 18a of this 2019 Act;

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

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

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