

Requested by Senator FINDLEY

**PROPOSED AMENDMENTS TO  
SENATE BILL 1574**

- 1 On page 1 of the printed bill, line 4, delete “and section 12,”.
- 2 In line 5, delete “chapter 751, Oregon Laws 2009,”.
- 3 On page 2, line 6, after the semicolon insert “and”.
- 4 On page 9, line 9, delete “(8)” and insert “(9)”.
- 5 On page 17, line 20, after “(B)” insert “Except as provided in subsection  
6 (6) of this section,”.
- 7 After line 22, insert:  
8 “(6) At the request of an EITE entity described in section 24 of this 2020  
9 Act, the office shall include in the calculation required by subsection (5)(a)  
10 of this section the emissions described in subsection (5)(b)(B) of this section.  
11 An EITE entity described in section 24 of this 2020 Act that requests inclu-  
12 sion of the emissions described in subsection (5)(b)(B) of this section in the  
13 calculation required by subsection (5)(a) of this section is exempt from the  
14 requirements of section 24 of this 2020 Act and may not be allocated allow-  
15 ances for direct distribution at no cost under section 24 of this 2020 Act.”.
- 16 In line 23, delete “(6)” and insert “(7)”.
- 17 In line 28, delete “(7)” and insert “(8)”.
- 18 In line 36, delete “(8)” and insert “(9)”.
- 19 On page 18, delete lines 20 through 45 and delete page 19.
- 20 On page 20, delete lines 1 through 29 and insert:  
21 **“SECTION 22.** Section 20 of this 2020 Act is amended to read:

1       **“Sec. 20.** (1) As used in this section[,]:

2       **“(a)** ‘Annual benchmarked emissions calculation’ means the product of  
3 an emissions efficiency benchmark for a good or group of goods multiplied  
4 by the EITE entity’s output, during the calendar year for which allowances  
5 will be allocated for direct distribution at no cost to the EITE entity, of the  
6 good or group of goods to which the emissions efficiency benchmark applies.

7       **“(b) ‘Best available technology’ means the fuels, processes, equip-**  
8 **ment and technology that will most effectively reduce the regulated**  
9 **emissions:**

10       **“(A) For which an EITE entity must meet a compliance obligation;**  
11 **and**

12       **“(B) That are associated with the manufacture by an EITE entity**  
13 **of a good, without changing the characteristics of the good being**  
14 **manufactured, that is technically feasible, commercially available,**  
15 **economically viable and compliant with all applicable laws.**

16       “(2) The annual allocation of allowances for direct distribution at no cost  
17 to an EITE entity shall be a number of allowances equal to the sum total  
18 of the annual benchmarked emissions calculations for the goods manufac-  
19 tured by the EITE entity.

20       “(3) The Office of Greenhouse Gas Regulation shall establish, by order,  
21 the emissions efficiency benchmarks for goods manufactured in this state by  
22 EITE entities.

23       “(4) In establishing the emissions efficiency benchmarks, the office may:

24       “(a) Establish an emissions efficiency benchmark separately for each in-  
25 dividual good manufactured in this state by an EITE entity; or

26       “(b) Establish a single emissions efficiency benchmark for a group of  
27 goods manufactured in this state by an EITE entity, if the office determines  
28 that the anthropogenic greenhouse gas emissions attributable to the manu-  
29 facture of each of the goods in the group:

30       “(A) Are not materially different in quantity; or

1 “(B) Cannot be distinguished as emissions attributable to any one of the  
2 goods in the group.

3 “[5)(a) *The office shall establish emissions efficiency benchmarks based on*  
4 *recent years’ efficiency as provided in this subsection. An emissions efficiency*  
5 *benchmark established based on recent years’ efficiency shall be applicable for*  
6 *the period beginning January 1, 2022, and ending December 31, 2025. To de-*  
7 *termine each emissions efficiency benchmark, the office shall:]*

8 “[A) *Calculate the three-year average of the total, expressed in metric tons*  
9 *of carbon dioxide equivalent, of the anthropogenic greenhouse gas emissions*  
10 *attributable to the manufacture of the good or group of goods for which the*  
11 *EITE entity would have been the regulated covered entity if the Oregon*  
12 *Greenhouse Gas Initiative had been in effect during the time that the*  
13 *anthropogenic greenhouse gas emissions occurred; and]*

14 “[B) *Divide the number calculated under subparagraph (A) of this para-*  
15 *graph by the three-year average of the total annual output of the good or group*  
16 *of goods in this state by the EITE entity.]*

17 “[b) *In conducting the calculation required by paragraph (a) of this sub-*  
18 *section, the office:]*

19 “[A) *Shall use anthropogenic greenhouse gas emissions information and*  
20 *output data from the three most recent years prior to 2022 for which*  
21 *anthropogenic greenhouse gas emissions information is available and verified*  
22 *by the office; and]*

23 “[B) *Except as provided in subsection (6) of this section, shall exclude from*  
24 *the data described in subparagraph (A) of this paragraph the anthropogenic*  
25 *greenhouse gas emissions attributable to natural gas combustion by an EITE*  
26 *entity described in section 24 of this 2020 Act.]*

27 “[6) *At the request of an EITE entity described in section 24 of this 2020*  
28 *Act, the office shall include in the calculation required by subsection (5)(a) of*  
29 *this section the emissions described in subsection (5)(b)(B) of this section. An*  
30 *EITE entity described in section 24 of this 2020 Act that requests inclusion*

1 *of the emissions described in subsection (5)(b)(B) of this section in the calcu-*  
2 *lation required by subsection (5)(a) of this section is exempt from the require-*  
3 *ments of section 24 of this 2020 Act and may not be allocated allowances for*  
4 *direct distribution at no cost under section 24 of this 2020 Act.]*

5 **“(5)(a) The office shall establish emissions efficiency benchmarks**  
6 **based on best available technology as provided in this subsection. The**  
7 **office shall update each emissions efficiency benchmark once every**  
8 **nine years. Each emissions efficiency benchmark must represent the**  
9 **anthropogenic greenhouse gas emissions that would be the resulting**  
10 **regulated emissions attributable to an EITE entity for the manufac-**  
11 **ture of a good or group of goods in this state, if the EITE entity were**  
12 **to use the best available technology, as of the date that the emissions**  
13 **efficiency benchmark was last updated, that materially contributes to**  
14 **the regulated emissions of the EITE entity.**

15 **“(b) In determining an emissions efficiency benchmark, the office**  
16 **shall:**

17 **“(A) Consider any anthropogenic greenhouse gas emissions inten-**  
18 **sity audit reports specific to the EITE entity submitted under para-**  
19 **graph (c) of this subsection;**

20 **“(B) Consider the technical feasibility, commercial availability and**  
21 **economic viability of options to reduce anthropogenic greenhouse gas**  
22 **emissions;**

23 **“(C) Consider the fuels, processes, equipment and technology used**  
24 **by facilities in this state or in other jurisdictions to produce goods of**  
25 **comparable type, quantity and quality;**

26 **“(D) Consider barriers that would prevent adoption of best available**  
27 **technology by the EITE entity; and**

28 **“(E) Exclude from any calculation the anthropogenic greenhouse**  
29 **gas emissions attributable to natural gas combustion by an EITE en-**  
30 **tity described in section 24 of this 2020 Act.**

1       “(c) An EITE entity may submit to the office, for consideration in  
2 adopting emissions efficiency benchmarks, an anthropogenic  
3 greenhouse gas emissions intensity audit report produced by a quali-  
4 fied, independent third-party organization. The audit report must:

5       “(A) Include an analysis of the current fuels, processes, equipment  
6 and technology that materially contribute to the regulated emissions  
7 of the EITE entity attributable to the manufacture of each good or  
8 group of goods by the EITE entity and the resulting emissions inten-  
9 sity per unit of output for each good or group of goods.

10       “(B) Include an analysis of the best available technology to produce  
11 the goods manufactured by the EITE entity and the resulting  
12 anthropogenic greenhouse gas emissions intensity per unit of output  
13 for each good or group of goods if best available technology were used  
14 by the EITE entity. The analysis required by this subparagraph must,  
15 to the greatest extent practicable, consider the factors described in  
16 paragraph (b)(C) and (D) of this subsection.

17       “(C) Based on the analyses required under subparagraphs (A) and  
18 (B) of this paragraph, provide an estimate of the anthropogenic  
19 greenhouse gas emissions intensity per unit of output to produce the  
20 same goods or groups of goods at the same facility if the facility used  
21 the best available technology.

22       “(6) At the request of an EITE entity described in section 24 of this  
23 2020 Act, the office shall include in the determination of an emissions  
24 efficiency benchmark the emissions described in subsection (5)(b)(E)  
25 of this section. An EITE entity described in section 24 of this 2020 Act  
26 that requests inclusion of the emissions described in subsection  
27 (5)(b)(E) of this section in the determination of an emissions efficiency  
28 benchmark is exempt from the requirements of section 24 of this 2020  
29 Act and may not be allocated allowances for direct distribution at no  
30 cost under section 24 of this 2020 Act.

1       “(7) An EITE entity may file with the office a written request for a con-  
2 tested case hearing to challenge an order establishing the emissions effi-  
3 ciency benchmarks for goods produced by the EITE entity. The request shall  
4 be filed within 30 days after the date the order was entered. If an EITE en-  
5 tity requests a hearing, the hearing shall be conducted in accordance with  
6 the provisions applicable to contested case proceedings under ORS chapter  
7 183.

8       “(8) In order to implement this section, the Oregon Greenhouse Gas Re-  
9 duction Board shall adopt by rule:

10       “(a) A means for attributing an EITE entity’s anthropogenic greenhouse  
11 gas emissions to the manufacture of individual goods or groups of goods;

12       “(b) Requirements for EITE entities to provide any pertinent records  
13 necessary for the office to verify output data; and

14       “(c) A process for adjusting an allocation of allowances for direct dis-  
15 tribution at no cost, if necessary, to reconcile for output variability or type  
16 of good.

17       “(9) The board shall adopt by rule a process for EITE entities to apply  
18 to the office for an adjustment to the allocation of allowances for direct  
19 distribution at no cost that the EITE entity may receive. The office may  
20 grant an adjustment under this subsection only for a significant unantic-  
21 ipated change in the anthropogenic greenhouse gas emissions attributable to  
22 the manufacture of a good or group of goods in this state by the EITE entity,  
23 based on a finding by the office that the adjustment is necessary to accom-  
24 modate changes to the manufacturing process that have a material impact  
25 on anthropogenic greenhouse gas emissions. Rules adopted under this sub-  
26 section may provide for the office to contract with an external third-party  
27 expert to assist the office in making individual determinations on applica-  
28 tions for adjustments.”.

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