



State of Oregon Department of Environmental Quality

Written Comments

CPP EITE 2027 Rulemaking Advisory Committee Meeting 2

This document is a compilation of written comments received through August 19th, 2026 at 12:30pm related to the second meeting of the advisory committee for the Climate Protection Program EITE 2027 Rulemaking held on July 29, 2026.

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¹ Climate Solutions, Green Energy Institute at Lewis & Clark Law School, Oregon Business for Climate, Oregon Just Transition Alliance, BlueGreen Alliance



August 14, 2026

Comments of the Alliance of Western Energy Consumers on the Oregon Department of Environmental Quality's Climate Protection Program 2026 EITE Rulemaking (Advisory Meeting #2)

The Alliance of Western Energy Consumers ("AWEC") appreciates this opportunity to provide responses to questions from the Oregon Department of Environmental Quality's ("DEQ") 2026 Climate Protection Program ("CPP") EITE Rulemaking Advisory Committee ("RAC") Meeting #2.

AWEC represents approximately 40 large industrial electric and natural gas consumers in the Pacific Northwest, including EITEs and large volume natural gas sales and transportation customers served by the three Oregon local distribution companies ("LDCs")—NW Natural, Avista and Cascade. AWEC's primary focus is to ensure that its members have access to safe, reliable, and competitively priced energy supplies and services, and in promoting a healthy economy and environment in the region. Accordingly, AWEC appreciates the opportunity to participate in this EITE rulemaking process and to discuss proposed improvements to the CPP and EITE program requirements.

As mentioned in AWEC's prior comments, the current CPP program creates an unfortunate tension between EITE and non-EITE customers through the use of a fixed emissions cap for all Covered Entities. AWEC urges DEQ to remove this tension and set a separate emissions cap and reduction schedule for EITE's, and to further set an emissions cap and reduction schedule that is achievable and economic for non-EITE customers. If a separate emissions cap and reduction schedule are not created, there could be shifting compliance obligations and cost shifts between EITE and non-EITE customers. There is a strong policy rationale for giving EITEs a distinct emissions cap and reduction schedule and compliance pathway rather than simply placing them under the same declining cap structure as fuel suppliers and utilities. For Oregon's EITEs to remain competitive, Oregon's reduction percentage should not outpace the emissions programs in other states. Additionally, Oregon's limitation on the use of CCIs for compliance creates an additional disadvantage for Oregon EITEs. AWEC recommends that EITE entities be exempt from the CCI limitations in OAR 340-273-9000 Table 5.

Below, AWEC provides answers to the questions asked by DEQ in RAC 2 Policy Memo.

1. Benchmarks.

- a. Is there something non-representative about the years of 2023-2025 when it comes to assessing the current state of production at an individual source or across multiple sources?

DEQ should allow EITEs to select data years to establish an EITEs specific baseline that best represents normal usage and operations at the facility. AWEC continues to



recommend that DEQ set a range of 10 years and allow each source to select its data years from within that range. A three year baseline is far too short of a period to create benchmarks, because EITEs can be subject to extreme market fluctuations and different production schedules which may not represent normal operating conditions. As a result, one or more atypical years within such a short period could materially distort a facility's benchmark. If DEQ continues to pursue a 3 year baseline period, AWEC supports allowing "EITE facilities an opportunity to demonstrate significantly abnormal periods of operation materially impacted the facility, which may justify expending or changing the data set to include a year or years prior to 2023." See DEQ RAC 2 Policy Memo p. 2.

- b. Should DEQ incorporate more recent emissions data than 2025 in the benchmarks? What might the advantages or disadvantages be of using the most recent emissions data year, 2026, in the benchmark?

DEQ should allow 2026 emissions data at the election of an EITE if that data more accurately represents normal operating conditions at the facility. Allowing the optional use of 2026 data would enable benchmarks to reflect more current production levels, operating practices, equipment configurations, and emissions performance. It could be particularly appropriate for facilities that experienced abnormal operating conditions during the earlier baseline years or underwent significant operational changes before or during 2026.

2. Reduction Schedules.

- a. Should any reductions start before the 2030-31 compliance period? Why or why not?

DEQ should not require emission reductions to start before the 2030-31 compliance period, and in fact AWEC supports extending CPP compliance for EITEs to a period beyond 2031. EITEs will need time to evaluate how to best comply with the CPP, which could in some cases include significant investments in new technology and equipment, upgrades to existing equipment and plant reconfigurations. These types of capital investments require significant planning and development lead times.

- b. Does an approach working for a 1.0%-2.5% annual reduction, while allowing adjustments to that schedule, balance the urgency of action with the possibilities of reduction?

AWEC recommends a reduction schedule of .75% every two years – or 1.5% every four years. This approach aligns more closely with Washington's current Climate Commitment Act reduction schedule while still providing meaningful and predictable reductions. It should be noted that there are differences between the Washington and Oregon programs which make it difficult to compare one part of the program without



looking at the entire program. To the extent Oregon's CPP reduction schedule is not in sync with emission reduction programs in Washington and California, EITEs will not be able to compete on a level playing field with facilities in other states and the program will fail to address emissions leakage. If emissions leakage is not properly addressed, it could shift production—and associated emissions—outside Oregon and potentially increase regional emissions. A more measured reduction schedule, coupled with the ability to adjust the reduction schedule as circumstances warrant, would better balance the interest of emissions reduction and the need to address leakage.

3. Adjustments to Reduction Schedules.

- a. What are your thoughts on a reduction schedule adjustment process? What do you see as the potential advantages or disadvantages of DEQ's proposed approach?

AWEC supports the adoption of a reduction schedule adjustment process if further reductions are not reasonably possible. AWEC would recommend that any adjustment last for 2 compliance periods. It is unlikely that the underlying conditions justifying an adjustment—such as technological limitations, lack of compliance instrument or market conditions—would materially change within a single compliance period. Requiring EITEs to repeatedly seek adjustments despite unchanged conditions would create an unnecessary administrative burden for both DEQ and EITEs.

- b. If created, what should sources be required to demonstrate to be eligible? Should any parts of the application require outside certification?

An EITE should be allowed to provide evidence indicating additional reductions in emissions are not technically or economically feasible. That demonstration could include information regarding available technologies, implementation timelines, the cost of renewable alternative fuel, compliance instrument availability and costs, capital and operating costs, and the effect of additional compliance obligations on the facility's ability to compete with comparable facilities in other jurisdictions. This adjustment process should not require outside or third party verification.

- c. If created, what should an analysis of potential reductions include? Are there items missing from the list above, or are items unnecessarily included?

DEQ should allow an EITE to submit any information relevant to a request to revise an EITE's reduction schedule including include information regarding available technologies, implementation timelines, the cost of renewable alternative fuel, compliance instrument availability and costs, capital and operating costs, and the effect of additional compliance obligations on the facility's ability to compete with comparable facilities in other jurisdictions. AWEC would support an adjustment



process using some of the information described in DEQ RAC 2 Policy Memo p. 3, but an EITE should be able to provide information to justify a revised reduction schedule that is not included in that summary.

- d. Should any potential adjustments apply only to the forthcoming compliance period, or should DEQ have the discretion to include a longer adjustment? What might the advantages or disadvantages?

AWEC recommends that any adjustment last for at least 2 compliance periods. It is unlikely that the underlying conditions justifying an adjustment—such as technological limitations, capacity or infrastructure constraints, or market conditions—would materially change within a single compliance period. Requiring EITEs to repeatedly seek adjustments despite unchanged circumstances would create an unnecessary administrative burden for both DEQ and EITEs.

4. Significant Production Downturns.

- a. Should DEQ establish a separate process for distributing compliance instruments to an EITE facility experiencing a significant production downturn? Why or why not?

Yes, AWEC supports a process for a separate compliance instrument pathway for an EITE facing a significant production downturn. Establishing a climate program that has safeguards for an EITE facing a production downturn, and a corresponding increase in emissions, is important to prevent leakage.

- b. If such a process were considered, how should DEQ determine whether production decline is significant enough to trigger an alternative distribution approach?

This would likely need to be looked at on a case-by-case basis. AWEC will update this in future comments.

- c. If yes, should alternative distribution approach be one of the approaches discussed earlier or another? What are the benefits and disadvantages of the different approaches?

AWEC appreciates the various approaches outline in the DEQ RAC 2 Policy Memo and recommends that there be a suite of options to address significant production downturns.

5. Privacy of Production Data.

- a. Are there approaches DEQ should consider for those interested in keeping production numbers confidential?



AWEC urges the DEQ to take steps to ensure the confidentiality of production data because this is highly sensitive information that could be used by a competitor to the detriment of an EITE. Production data is typically treated by EITEs as proprietary and competitively sensitive information.

AWEC would support the adoption of a provision similar to that contained in Washington's CCA, including a recent 2026 amendment via SB 6246 (Sec. 1 (9)(f)):

"Information contained in assessments submitted to the department by an emissions-intensive, trade-exposed facility under this subsection (9) are records containing financial, proprietary, and other market-sensitive information in accordance with RCW 40 70A.65.100(9)(c), and such assessments are fully exempt from public disclosure in their entirety. The department may make public summarized information contained in assessments submitted under this subsection (9) in an aggregated manner that does not allow for the identification of any facility-specific financial, proprietary, or market-sensitive information."

- b. Is the option of a mass-based benchmark and reduction schedule a worthwhile compromise that could provide assurance of keeping production data confidential while losing the function of expanding allocation to sources whose production levels have increased?

AWEC urges DEQ to reject the idea to adopt a "mass-based benchmark and reduction schedule" to avoid the confidentiality concerns associated with production data and continue to pursue a carbon intensity approach along with appropriate safeguards for confidential business information.

- c. DEQ is considering presenting the proposed unit of production or process for each EITE source, without a specific benchmark number, at a future advisory committee meeting. What might be advantages or disadvantages of doing this?

AWEC would need more information to answer this question, but is concerned about the potential disclosure of confidential information. AWEC would urge DEQ to share this information with each EITE and obtaining consent before sharing this information.

6. USE OF COMMUNITY CLIMATE INVESTMENT CREDITS

- a. Should DEQ increase the 20% limit on using CCI credits for EITEs? If so, to what percentage, and why?

Yes. AWEC recommends that EITE entities be exempt from the CCI limitations in OAR 340-273-9000 Table 5. A principal driver of the cost and uncertainty of CPP compliance is the limited supply and uncertain pricing of RNG. Lifting the restriction



on CCI utilization for EITE customers will provide greater cost certainty and reduce the risk of future long-term investments in Oregon. Eliminating the CCI limitation in OAR 340-273-9000 would have a significant impact on the cost impact of the program.

- b. Should an increase be available at any time, or only under certain conditions?

AWEC recommends that DEQ exempt EITE from the CCI limitations in OAR 340-273-9000 Table 5 as part of this rulemaking.

7. Program Review and Evaluation

- a. Are there any additional program data on EITE implementation that should be included in the annual report to the EQC or the five-year program review? If yes, what information and why?

AWEC supports a review process to determine if the CPP program goals and objectives are being achieved, and to what extent it may be harming the business interest in the state.

AWEC appreciates the opportunity to provide these comments. We look forward to future participation and discussion in the CPP EITE 2026 rulemaking process.

Sincerely,

William (Bill) A. Gaines
Executive Director, AWEC

Benchmarks

Is there something non-representative about the years of 2023-2025 when it comes to assessing the current state of production at an individual source or across multiple sources?

The 2023–2025 period should not be treated as automatically representative for cement manufacturing. Cement plant emissions intensity can vary materially based on kiln outages, maintenance cycles, raw material chemistry, fuel availability, customer demand, product mix, and market-driven production rates. A fixed recent-year window also risks penalizing facilities that made substantial early investments to reduce emissions before the benchmark period.

From the cement industry viewpoint, DEQ should allow source-specific baseline flexibility so benchmarks reflect the inherent variability in the normal operations of the energy-intensive, trade-exposed cement business, and do not convert early action into a permanent compliance disadvantage.

For Ash Grove’s plant, we continue to request a benchmark intensity value based on the plant’s average cement production intensity between 2017 and 2019. This is the time frame used by Oregon DEQ to establish the overall CPP emissions cap and, more importantly, is contemporaneous with Ash Grove’s investment to construct and operate a state-of-the-art finish mill to enable the plant’s production of lower-carbon cement. The CPP should not punish Ash Grove for its recent investment in technology that allows the plant to make lower-carbon cement products. Instead, covered EITE facilities that invested in efficiency, alternative fuels, process improvements, lower-clinker cement products, or other emissions-reduction measures before the CPP regulates them should not face tougher benchmarks simply because they acted first. DEQ should allow pre-investment baseline years, including years since 2017, to preserve the value of those investments.

Likewise, DEQ would be misinformed to the extent it believes that Ash Grove sets the market or demand for lower-carbon cement products (i.e., cement produced with proportionately less clinker and more limestone and other lower-carbon materials). Instead, Ash Grove’s plant is the epitome of a trade-exposed entity, and Ash Grove’s ability to produce lower-carbon cement products is driven by customer demand. While the market for lower-carbon cement products is still developing, Ash Grove does not have great confidence that its customers will tolerate higher, CPP-priced cement products.

Should DEQ incorporate more recent emissions data than 2025 in the benchmarks? What might the advantages or disadvantages be of using the most recent emissions data year, 2026, in the benchmark?

DEQ should allow more recent data to be used if a source demonstrates that the data are representative and appropriate. Using 2026 could improve accuracy if it reflects normal source operations and market cycles, but it could also distort benchmarks if the year includes abnormalities, e.g., outages, market surges, unusual fuel constraints, or temporary shifts in product mix.

We believe that the preferred approach is not to mandate a single year or years, but to allow each EITE source to propose representative baseline years to DEQ supported by facility-specific data and explanation.

Reduction Schedules

Should any reductions start before the 2030-31 compliance period? Why or why not?

No. Reductions should not begin before the 2030–2031 compliance period. Cement-sector reductions require engineering, financing, permitting, procurement, construction, commissioning, and customer acceptance of lower-carbon products. Requiring reductions before benchmarks are finalized and investment pathways are known would drive compliance costs, production constraints, or leakage rather than real emissions reductions.

Does an approach working for a 1.0%-2.5% annual reduction, while allowing adjustments to that schedule, balance the urgency of action with the possibilities of reduction?

A default 1.0%–2.5% annual reduction schedule may be too aggressive for cement unless paired with strong source-specific adjustments, realistic lead time, and a technical and economic feasibility backstop. Cement emissions include unavoidable process emissions from calcination, and additional, meaningful reductions will depend on long-lead technologies not yet available or demonstrated, market demand for lower-clinker products (which is not yet consistent), permitting, and infrastructure.

DEQ should avoid setting targets that effectively require curtailment, imports, or speculative technologies. A slower default schedule, with a clear adjustment pathway, would better balance achieving DEQ's goal for further reductions from Oregon's cement

production sector with maintaining Oregon's cement production and avoiding the more-intense greenhouse gas emissions that accompany cement imports into the state.

Adjustments to reduction schedules

What are your thoughts on a reduction schedule adjustment process? What do you see as the potential advantages or disadvantages of DEQ's proposed approach?

DEQ should establish a clear, timely, and predictable adjustment process and standards. If done this way, the major advantage is it would recognize technical feasibility, economic reasonableness, permitting timelines, market conditions, operational variability, and leakage risk. If the reduction schedule adjustment process is not well-defined, and grounded in clear standards which – if met – will result in adjustments, facilities may still (despite the process) face immediate, substantial compliance obligations before relief is available, driving leakage.

For cement, the adjustment process must be more than a discretionary pathway to possibly provide relief after the fact; it should function as a practical, certain backstop available when further reductions are not technically or economically feasible without reducing in-state production.

If created, what should sources be required to demonstrate to be eligible? Should any parts of the application require outside certification?

Eligibility should require a source to demonstrate representative operations, completed and planned emissions-reduction measures, remaining feasible reduction opportunities, cost and timing constraints, permitting or infrastructure barriers, and potential leakage impacts. Outside certification is generally not welcome as it adds cost and complexity while reducing source certainty and DEQ agency; while outside certification may be appropriate for discrete technical analyses or emissions calculations, DEQ should not require third-party certification for business-specific and -sensitive operational judgments or market forecasts.

If created, what should an analysis of potential reductions include? Are there items missing from the list above, or are items unnecessarily included?

An analysis of potential reductions should include, as may be appropriate, process emissions, combustion emissions, energy efficiency measures, alternative fuels, raw

material constraints, equipment limitations, permitting and construction timelines, infrastructure needs, energy impacts and constraints, capital and operating costs, affordability, customer specifications, product standards, technical feasibility (e.g., is a technology available, demonstrated and compatible), legal feasibility, collateral environmental impacts, and expected implementation schedules. It should also evaluate leakage risk (e.g., impact on product costs and facility competitiveness) and whether additional reductions would shift demand to higher-emitting imports.

DEQ should avoid identifying speculative technologies, such as full-scale carbon capture or kiln electrification, as feasible. These should not be considered feasible reduction measures unless they are commercially available, permitted, financed, demonstrated and feasible for the specific facility.

Should any potential adjustments apply only to the forthcoming compliance period, or should DEQ have the discretion to include a longer adjustment? What might the advantages or disadvantages?

Adjustments should not be unavailable during the first compliance period or be limited only to the next compliance period. DEQ should have discretion to grant multi-period adjustments where the underlying constraint is expected to last beyond one period, such as major capital project timing, permitting barriers, technology limits, or sustained market changes. Longer adjustments provide regulatory certainty and support investment planning.

Significant Production Downturns

Should DEQ establish a separate process for distributing compliance instruments to an EITE facility experiencing a significant production downturn? Why or why not?

Yes. DEQ should establish a separate process for significant production downturns because emissions intensity can increase when a cement plant operates below normal capacity, even if total emissions decline. Without a downturn mechanism, a facility could be penalized for market or operational conditions unrelated to emissions performance.

A downturn process is also important to prevent rules from compounding business stress and accelerating leakage during periods when Oregon production is already under pressure.

If such a process were considered, how should DEQ determine whether production decline is significant enough to trigger an alternative distribution approach?

DEQ should determine significance using source-specific thresholds tied to historical representative production, duration of the downturn, causes outside the facility's control, and whether the downturn materially affects emissions intensity or compliance instrument needs. A fixed percentage threshold may be useful, but it should be rebuttable where the facility demonstrates a material compliance impact.

If yes, should alternative distribution approach be one of the approaches discussed earlier or another? What are the benefits and disadvantages of the different approaches?

The preferred alternative is to compare actual emissions during the downturn to the emissions that would have occurred under the scheduled intensity target at representative baseline production. If actual emissions are below that projected compliant level, the facility should receive enough compliance instruments to cover actual emissions during the affected period.

This approach protects facilities from being penalized for reduced production while preserving the program's environmental integrity.

Privacy of production data

Are there approaches DEQ should consider for those interested in keeping production numbers confidential?

Yes. DEQ should protect production data as confidential, trade secret business information to the fullest extent allowed by Oregon law. Public disclosure of facility-level production volumes, product mix, or customer-related production data could reveal competitively sensitive information in a trade-exposed market.

DEQ should consider aggregated reporting, ranges, anonymized presentation, confidential submittal procedures, protective orders, or publishing only the unit of production and methodology where public disclosure of numerical production data is unnecessary.

Additionally, the people who receive and process our data should meet a minimum level of fiduciary responsibility, training and certification since the business information provided can affect CCI volumes and have market implications.

DEQ should develop proposed rule language making clear that any production data, product mix or other information that comprises trade secrets, as defined in ORS 192.345(2), provided by an EITE source under the CPP will be maintained as confidential and will not be disclosed by DEQ to any third parties absent specific authorization by the EITE source.

Is an option of a mass-based benchmark and reduction schedule an approach DEQ should offer?

DEQ could offer a mass-based option only as an elective alternative for a source that determines it better protects confidential production data or better reflects its operations. It should not be imposed on cement facilities as a substitute for a properly designed source-specific intensity benchmark.

For cement, an intensity-based approach remains essential because it allows Oregon production to continue while rewarding lower-carbon production. A mandatory mass-based approach could cap production, discourage investment, and increase reliance on imports resulting in leakage and higher overall emissions.

CCI Credit Limits

Should DEQ increase the 20% limit on using CCI credits for EITEs? If so, to what percentage, and why?

Yes. DEQ should increase the 20% CCI credit limit for EITE sources, and cement facilities should be allowed to use CCI credits to satisfy any remaining compliance obligation after free compliance instruments are applied. A higher limit is necessary because near-term cement reductions may be constrained by technology readiness, permitting, capital project timing, fuel availability, product standards, and market demand.

If CCI credits represent verified reductions, DEQ should allow broader use by EITE sources rather than force production cuts or leakage. At minimum, the limit should be substantially higher for EITEs and should include the ability to bank credits across compliance periods.

It seems unnecessary to cap CCI credits if those projects are truly reducing emissions and providing the verifiable and intended benefits. With that said, Ash Grove views CCIs as a temporary, interim tool (at best) to satisfying CPP reduction requirements. That is because, due to their high costs, widespread use of CCIs would impose overall costs on our cement

facility that would have to be passed on, placing our Oregon cement products at a competitive disadvantage, driving leakage.

Should an increase be available at anytime, or only under certain conditions?

CCIs should be available whenever an EITE source cannot meet its compliance obligation with available compliance instruments. Cement facilities and other EITE sources should be allowed to use CCI credits to satisfy any remaining compliance obligation after free compliance instruments are applied.

Required rules review

Are there any additional program data on EITE implementation that should be included in the annual report to the EQC or the five-year program review? If yes, what information and why?

Yes. DEQ should include EITE implementation data that shows whether the program is preventing leakage while supporting real emissions reductions. The annual report and five-year review should include production trends, import displacement risk, compliance costs, CCI credit usage, approved adjustment requests, denied adjustment requests, timelines for reduction projects, permitting barriers, technology readiness, and impacts on Oregon jobs and investment. DEQ should also present information forecasting future leakage risk over the next five-year program review, and offer regulatory and policy ideas to the EQC to respond to that risk. Additionally, impacts on global GHG emissions due to leakage should be a transparent component of DEQ's reporting.

DEQ should also evaluate whether benchmark and reduction schedules are unintentionally advantaging imported cement over lower-intensity in-state production. That review is critical because preventing emissions leakage should be treated as a core program objective, not a secondary consideration.

August 11, 2026

Attn: Climate Protection Program EITE Rulemaking Section
Oregon Department of Environmental Quality

Sent via e-mail

RE: Climate Protection Program EITE Rulemaking Public Comments

Avista Corporation ("Avista") respectfully submits the following comments in response to the Oregon Department of Environmental Quality's (DEQ's) Climate Protection Program (CPP) Emissions-Intensive Trade-Exposed (EITE) Rulemaking. Avista recognizes the importance of establishing a clear and equitable framework for identifying and regulating EITE entities under the CPP. Given the significant role these entities play within Oregon's economy and the potential effects their inclusion may have on the program's compliance market, it is critical that the rulemaking carefully consider both the treatment of affected EITE sources and the broader impacts on existing covered entities.

While Avista supports providing compliance instruments to Emissions-Intensive Trade-Exposed (EITE) industries and Direct Natural Gas (DNG) sources, we are concerned that incorporating these entities into the existing compliance instrument pool, could reduce instrument availability for current covered entities and increase competition for a limited supply of compliance instruments. Accordingly, Avista recommends that DEQ establish separate compliance instrument pools and associated caps for EITE and DNG entities including fuel suppliers and local distribution companies. Under the current framework, a single, declining pool of compliance instruments would be shared among a developing group of covered entities as EITEs and DNGs become subject to compliance obligations. Expanding program participation without a corresponding increase in available compliance instruments is likely to intensify competition for a constrained supply, particularly as allocations decrease over time. This dynamic could increase compliance costs, reduce market liquidity, and elevate risk for covered entities.

Establishing separate compliance instrument pools would better recognize the differing compliance obligations and market characteristics of these sectors while promoting equitable treatment across the program. Such an approach would help preserve market stability, improve regulatory certainty, and mitigate unintended consequences associated with adding new participants to an already declining compliance instrument market.

Avista appreciates the opportunity to participate in this section of the Climate Protection Plan rulemaking process. We pride our business on the ability to serve customers with reliable and affordable energy while constantly evaluating potentially impactful policies. These discussions are essential in supporting clear, consistent implementation of the state's regulatory framework. If ODEQ staff would like to discuss these comments further, please contact Janna Dubnicka at Janna.Dubnicka@avistacorp.com.

Sincerely,

/s/ Janna Dubnicka

Janna Dubnicka
Sr. Clean Energy Policy & Implementation Manager
Avista Corporation
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Submitted electronically via email to cpp.eite@deq.oregon.gov

August 14, 2026

Oregon Department of Environmental Quality
cpp.eite@deq.oregon.gov

Cascade Natural Gas Corporation (Cascade) provides the following comments to the Oregon Department of Environmental Quality (DEQ) regarding the Climate Protection Program (CPP) Emissions-Intensive, Trade-Exposed (EITE) Rulemaking Advisory Committee Meeting #2 which was held on July 29, 2026. These comments address the proposed amendments to OAR Chapter 340, Division 273.

Cascade continues to believe the CPP exceeds DEQ's legal authority, and offers the following comments in the interest of avoiding potentially significant economic impacts from DEQ's proposed rules. Cascade supports efforts to provide protection and flexibility for EITE entities to reduce the potential for emissions leakage and maintain competitiveness within Oregon. At the same time, Cascade believes additional safeguards are needed to avoid increasing compliance costs and reducing instrument availability for non-EITE entities and their customers.

1. Prevent Cost Shifts from EITE Entities to Other Customers

Cascade recommends that DEQ consider how additional flexibility provided to EITE entities may affect compliance costs and compliance instrument availability for non-EITE regulated entities. If DEQ includes EITE entities and non-EITE entities under the same overall compliance cap, additional compliance instruments for EITE entities would reduce the number of compliance instruments available to non-EITE entities. This would increase compliance costs and reduce compliance flexibility for transportation fuel suppliers, natural gas utilities, and other covered entities. These impacts may ultimately be experienced by Oregon customers through higher energy and transportation fuel costs.

2. Consider Separate Compliance Caps for EITE and Non-EITE Entities

Cascade recommends establishing separate compliance caps for EITE and non-EITE entities. Creating distinct caps would provide flexibility to EITE entities without increasing compliance costs for non-EITE entities and their customers.

This approach could provide greater transparency, improve planning certainty for regulated entities, and better balance the program's impacts across all sectors subject to the CPP.

3. Consider Facility-Specific, Feasible Emissions Benchmarks

Cascade encourages DEQ to consider whether emissions-intensity benchmarks could appropriately reflect facility-specific circumstances, available technologies, and technically feasible emissions-reduction opportunities. A transparent and technically grounded approach would recognize differences among EITE facilities and mitigate potentially significant impacts to energy affordability and Oregon's economy.

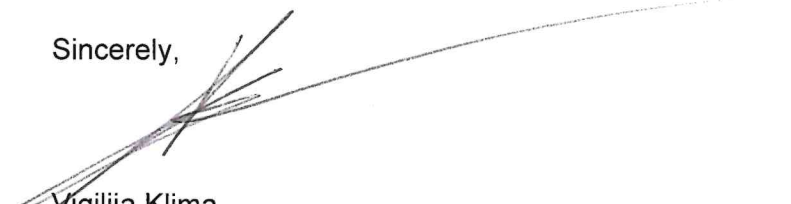
4. Provide Clarity Regarding Production Growth and New Facilities

Cascade recommends that DEQ provide additional clarity regarding how production growth and new EITE facilities may affect compliance instrument demand and availability under the program. Greater clarity could help covered entities better understand potential impacts on long-term compliance planning, cost management, and customer affordability.

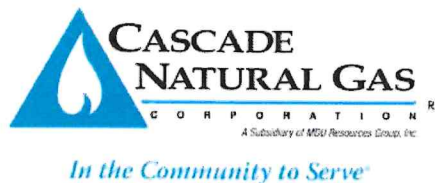
Finally, while Cascade supports flexibility for EITE entities, it should not come at greater expense to non-EITE entities and their customers. As stated above, we recommend establishing separate compliance caps for EITE and non-EITE entities to provide a balanced approach for both sectors. DEQ should also consider approaches adopted in jurisdictions such as Washington and California, where EITE compliance frameworks are designed to address competitiveness and emissions leakage concerns. Any EITE framework must consider affordability and planning certainty for all regulated entities.

Cascade appreciates the opportunity to provide DEQ comment during the CPP EITE Rulemaking process. If you would like to further discuss this letter or have any questions, please reach out to me at (509) 713-5054 or Vigilija.Klima@mdu.com.

Sincerely,



Vigilija Klima
Manager of Environmental Compliance and Sustainability



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Oregon Department of Environmental Quality
Office of Greenhouse Gas Emissions
cpp.eite@DEQ.oregon.gov

August 19, 2026

RE: Climate Protection Program 2026 Emissions Intensive Trade Exposed Rulemaking - RAC #2

Dear DEQ Office of Greenhouse Gas Emissions:

On behalf of the undersigned environmental justice, business, labor, and clean energy organizations, we respectfully submit the following comments in response to issues discussed and initial DEQ staff leanings presented at the second RAC meeting on July 29, 2026.¹ We incorporate by reference the comments for RAC #1 submitted on June 15th, 2026.² While we support DEQ's efforts to minimize leakage risks and ensure Oregon manufacturers can compete in a rapidly changing global economy, we urge DEQ to reconsider some of its initial proposals and right-size the need for EITE flexibility with Oregon's climate goals and the integrity of the CPP's declining emissions trajectory.

I. EITEs have had ample time to prepare for the changes required from an emissions-reduction program.

Since Oregon's original Climate Protection Program (CPP) was adopted in 2021, the need for climate action has only become more urgent. As of today, Oregon has suffered a record-setting wildfire season with over 2 million acres burned.³ Just earlier this month, Portland had the worst air quality in the world due to hazardous wildfire smoke.⁴

The CPP is the result of nearly two decades of work by a variety of stakeholders— including climate justice advocates, lawmakers, policymakers, business and labor leaders, and sovereign tribal representatives—to establish a durable framework for reducing Oregon's climate pollution.⁵ The Oregon legislature first directed the Oregon Global Warming Commission (now the Oregon Climate Action Commission) to study cap-and-trade and market-based mechanisms in 2007. After years of stalled legislative action, the program was adopted following culminating in the 2019 Republican walkouts over HB 2020 ("Clean Energy Jobs"). As a result, Governor Kate Brown signed Executive Order 20-04, which

¹<https://ormswd2.synergydcs.com/ORMSCMSearchDEQ/Search/RecordViewer.aspx?uri=7083396>.

²<https://ormswd2.synergydcs.com/ORMSCMSearchDEQ/Sea,rch/RecordViewer.aspx?uri=7072632>.

³<https://www.oregonlive.com/wildfires/2026/08/more-than-2-million-acres-burned-as-oregon-sets-new-wildfire-record.html>.

⁴<https://www.oregonlive.com/wildfires/2026/08/portland-now-has-worst-air-quality-in-the-world-as-wildfire-smoke-envelops-oregon.html>.

⁵<https://olis.oregonlegislature.gov/liz/2007R1/Downloads/MeasureDocument/HB3543/Enrolled>.

directed all Oregon agencies to take action on climate change in 2020.⁶ That decision initiated a two-year rulemaking process by DEQ, only to be litigated and invalidated on procedural grounds in 2023⁷ and subsequently re-established through rulemaking in 2024 to restore the CPP with the rebooted program beginning implementation in 2025.⁸ Again, as of April 2026, industry groups have challenged the new version of the CPP in court seeking to block the Program's implementation and challenge the State's authority to enforce the CPP,⁹ continuing the pattern of delaying their emissions reduction requirements.

With the unfortunate delay caused by the 2022 oil and gas industry lawsuit, Oregon has already lost years of emission reductions, on top of what had already been decades of delayed climate action, while federal climate and environmental justice protections are being dismantled. This delay makes achieving meaningful reductions in the near term. Future reduction schedules should therefore reflect Oregon's statewide climate goals and the need to maintain progress toward those goals despite the interruption in program implementation. The importance of this rulemaking reaches beyond Oregon as other states consider how to advance climate action in an increasingly challenging federal landscape.

As we heard from EITE representatives in RAC meetings #1 and #2, regulated entities have been preparing for climate regulation that reins in their emissions for years and have been working to comply with their required emissions reductions under the previously adopted Climate Protection Program rules. In other words, these sources have had substantial advance notice and ample opportunity to begin planning and investing for the transition to lower-emissions operations. Given that history, the new EITE program should not provide an additional multi-year period with no expectation of emissions reductions. Ensuring near-term reductions is critical to delivering public health benefits and alleviating burdens on impacted communities by reducing harmful co-pollutants that disproportionately affect Black, Indigenous, and People of Color communities, rural communities, and low-income Oregonians. Near-term reductions can also provide significant economic benefits by encouraging early investment in clean energy and other emissions-reducing technologies and innovations, generating immediate co-benefits for impacted communities while supporting new economic development across the state.

a. States that have adopted stringent EITE emissions reduction programs have yielded demonstrable economic benefits in job creation.

Delivering meaningful emissions reductions from Oregon's industrial sector is essential to protect both community health and the climate, but also to support long-term economic resilience, industrial modernization, and innovation. Examples of successful programs in other states and countries consistently demonstrate that ambitious and enforceable emissions reduction requirements drive innovation, operational improvements, and long-term economic competitiveness.

Regulated industries adapt, invest, and plan for a lower-carbon future when clear regulatory expectations, durable market signals, and long-term policy certainty are in place. For example, Colorado adopted

⁶ https://www.oregon.gov/gov/eo/eo_20-04.pdf.

⁷ <https://www.opb.org/article/2024/01/22/deq-climate-protection-program-restart-following-court-ruling/>.

⁸ https://www.oregon.gov/deq/rulemaking/adopted/Pages/_CPP2024.aspx.

⁹ <https://www.opb.org/article/2026/04/16/oregon-climate-protection-program-lawsuit/>.

industrial sector emissions rules in 2021 and 2023, GEMM I and GEMM II, respectively. GEMM I requires four EITE facilities emitting more than 25,000 MTCO₂e annually to:

- Demonstrate through an audit process that they are using Greenhouse Gas Best Available Emissions Control Technologies and Energy Best Management Practices.
- Achieve an additional 5% reduction in their greenhouse gas emissions.

GEMM II requires “17 of Colorado’s highest-emitting manufacturers to collectively reduce their greenhouse gas emissions 20% by 2030, compared to 2015 levels. These manufacturers emit air pollutants when producing a wide range of products, including petrochemicals, microchips, and glass.”¹⁰ Under GEMM II, covered emissions include reported facility emissions without meaningful distinction between process and combustion emissions.

Since rule adoption, Colorado has seen \$1.7 billion in project announcements and 4,900 new jobs from 2022–2024.¹¹ And as noted in DEQ’s own materials, covered entities have exceeded their goals and reduced their emissions by 20% compared to their 2015 baseline levels. During this period, Colorado-based brewery, New Belgium Brewing, partnered with AtmosZero,¹² a startup on a mission to electrify steam production and become the first to manufacture industrial steam heat pumps in the United States. This 650-kW project is estimated to provide 30% to 40% of the brewery’s total steam load, which is in line with an ACEEE study that calculated that industrial heat pumps can save up to 32% of the source energy in generating process heat.¹³ This project is a game-changer for New Belgium, where half of its direct greenhouse gas emissions—about 4,100 tons of carbon dioxide a year—come from burning natural gas to make steam. Thanks to this innovative partnership, AtmosZero is scaling its manufacturing operations in Colorado.¹⁴

This example is just one of many case studies demonstrating that emissions reductions are not only feasible; they provide significant opportunity for economic innovation, partnership, and growth.

II. EITE treatment must remain within the CPP’s declining emissions cap and the program’s robust flexible compliance options negate the need for separate treatment.

Just as Oregon cannot achieve its statewide emissions reduction targets without the CPP, the CPP cannot achieve its intended emissions reductions without maintaining a single, declining emissions cap that delivers enforceable, economy-wide emissions reductions over time. **We therefore strongly oppose any proposals to establish a separate emissions cap for EITE facilities.** The 2024 CPP rules were adopted

¹⁰ <https://cdphe.colorado.gov/apcd/GEMM-phase-2-rule>.

¹¹ <https://www.catf.us/resource/the-state-industrial-policy-playbook-a-policy-guide-for-low-emission-heavy-industry/#h-3-3-regulations>.

¹² <https://atmoszero.energy/>.

¹³ <https://coloradosun.com/2023/09/11/new-belgium-greenhouse-gases-atmoszero-heat-pump/>.

¹⁴ <https://www.craftbrewingbusiness.com/equipment-systems/atmoszero-laenable-companies-to-“compete”-against-standards-tailored-to-their-existing-operations-rather-than-against-a-meaningful-sector-wide-performance-benchmark-unches-electric-boiler-2-0-and-new-belgium-brewing-is-first-in-line/>.

following a collaborative stakeholder process in which many of the regulated entities participating in this current rulemaking expressed strong support for directly regulating EITE emissions under the program's declining cap. Creating a separate emissions cap for EITEs would therefore depart from that established framework, undermine the integrity of the CPP's overall emissions trajectory, and introduce uncertainty into the program's long-term emissions trajectory.

The proposed EITE framework already provides substantial flexibility by tying compliance obligations to emissions intensity rather than absolute emissions, allowing facilities to increase production without a proportional increase in compliance obligations. As a reminder, regulated fossil fuel suppliers were awarded an oversupply of compliance instruments in the 2024 CPP rulemaking process, such that at the outset of the reinstated program gas utilities and liquid fuel suppliers received several million additional compliance instruments more than their reported emissions reductions and required compliance obligation. Keeping EITEs within the existing CPP cap can provide additional flexibility by providing access to a larger compliance market and a more diverse pool of compliance instruments. **Rather than establishing a separate industrial cap, DEQ can address legitimate facility-specific circumstances through targeted, appropriately bounded flexibility within the EITE framework** while ensuring that any resulting flexibility remains bounded by the overall emissions limit.

This approach provides an important means of addressing legitimate leakage, technological, or economic concerns without compromising the integrity of the CPP's statewide emissions trajectory. A unified cap therefore allows DEQ to balance flexibility and competitiveness with the fundamental requirement that emissions reductions occur at the scale contemplated by the Climate Protection Program.

III. Flexible EITE treatment should not come at the expense of Oregon's climate and equity goals.

The CPP is Oregon's only regulation that limits climate pollution from industrial emitters, which account for roughly 20% of the state's total greenhouse gas emissions. As such, it plays a vital role in delivering enforceable, declining, sector-wide emissions cuts from large stationary sources, cuts that are essential to meeting Oregon's climate targets. The program's current regulatory structure seeks to achieve 50% emissions reductions by 2035 and 90% by 2050. Under the current rules, EITEs would start achieving reduction targets in 2028. Simply put, this rulemaking is one of the few state policy opportunities to meaningfully move the needle on climate emissions reductions from large industrial facilities.

Despite the urgent need for emissions reductions in the industrial sector, DEQ has proposed a framework that provides tremendous flexibility for EITEs. The agency is proposing individual, source-specific benchmarks with an option for EITEs to request additional product-specific benchmarks, treating each facility as unique with its own special regulator treatment. While facility-specific information can be important for accounting for legitimate differences in industrial processes and operating conditions, relying primarily on each facility's own historical or facility-specific performance also has important implications for the program's success in incentivizing emissions reductions. By allowing EITEs to be measured primarily against their own historical or facility-specific performance, DEQ would make it possible for companies to "compete" against standards tailored to their existing

operations rather than against a more meaningful, sector-wide performance benchmark. This is because a facility-specific benchmark generally measures a source against its own starting point, rather than providing a common performance standard based on what is achievable across an industry or for a particular product.

By contrast, sector-based benchmarks can provide a consistent measure of performance while still allowing facilities to increase production, and can create a stronger incentive for less-efficient facilities to move more quickly toward the performance of more efficient facilities – also likely reducing harmful co-emissions. A well-designed benchmark should therefore account for legitimate differences among facilities without allowing those differences to become a basis for maintaining existing levels of emissions intensity.

While we understand the need for flexibility for EITEs, the EITE framework should ensure that these sources achieve meaningful emissions reductions consistent with the CPP’s overall trajectory. The combination of individualized benchmarks, significant compliance flexibility, and a delayed reduction schedule could significantly limit near-term emissions, public health, and economic benefits associated with industrial decarbonization. Simply put, **it will be difficult to achieve meaningful long-term reductions if facilities begin with individualized baselines and then face only a 1-2.5% reduction beginning in 2030.** A predictable and sufficiently ambitious decline in emissions intensity is important not only to ensure that the program delivers actual emissions reductions, but also to provide facilities with a clear signal to plan and invest in cleaner technologies over time.

DEQ does not need to eliminate flexibility for EITEs to maintain program integrity and ensure meaningful emissions reductions. Rather, the agency must balance flexibility with meaningful, enforceable performance standards that become more stringent over time. This approach would provide EITEs with the certainty and time needed to make capital investments and adapt their operations while ensuring that industrial sources contribute meaningfully to economy-wide climate goals. Flexibility should provide a pathway for facilities to meet their obligations– not an opportunity to defer emissions reductions indefinitely.

- a. If benchmarking is not sector-based, we recommend a source-specific benchmark and further product differentiation only for homogenous and comparable sectors.**

When it comes to benchmarking, we would like to first reiterate the values we expressed in our RAC #1 letter to DEQ.¹⁵

DEQ should establish benchmark principles that prioritize environmental integrity, transparency when possible, comparability, and enforceability across all covered sources. Transparency is key to ensuring that stakeholders can understand and evaluate the data, assumptions, methodologies, and decision-making frameworks used to develop benchmarks. Comparability is equally important to maintaining fairness and program integrity by ensuring that facilities and sectors

¹⁵ <https://ormswd2.synergycs.com/ORMSCMSearchDEQ/Search/RecordViewer.aspx?uri=7072632>.

with similar emissions reduction opportunities, technical constraints, and leakage risks are evaluated and treated consistently.

Ultimately, benchmark design should prioritize real emissions outcomes and that any methodological complexity strengthens rather than dilutes the program's ability to deliver measurable reductions this decade. At a minimum, benchmark methodologies should be grounded in verified emissions and production data, reflect real-world operating conditions, and clearly articulate the assumptions, technical methodologies, and analytical frameworks used to assess technical feasibility, leakage risk, and emissions reduction opportunities. DEQ should also ensure emissions intensity metrics are designed carefully to avoid creating incentives for facilities to shift production, redefine outputs, or otherwise manipulate emissions intensity calculations without delivering real-world emissions reductions.

As previously stated, **sector-based benchmarking has notable benefits** to reward early emissions reductions actors and incentivize lagging facilities to improve, rather than tying performance expectations to a firm's own historical emissions. **Where products are sufficiently homogeneous and comparable, product-based benchmarking at the sector level can similarly reward best-in-class performance and maintain a clear incentive to improve emissions intensity over time, while avoiding locking in historical inefficiencies.** This approach is particularly appropriate for high-emitting primary materials such as cement, steel, and aluminum, **where sector-wide product-specific benchmarks are already used in other major climate programs, including California's cap-and-trade program¹⁶ and the EU trading system.¹⁷**

If DEQ determines that neither sector- nor product-based benchmarking is feasible for a particular industry, source-specific benchmarking may be appropriate as a targeted exception rather than the default approach. For industries producing highly differentiated consumer products or where meaningful product-level or cross-sector comparisons are not feasible, a source-specific output-based benchmark may be more appropriate. Ultimately, the goal should be to accommodate legitimate differences among industries and facilities without allowing those distinctions to become a basis for indefinitely, preserving existing and unnecessary differences in emissions performance.

b. The data years of the most recent three-year average are an appropriate baseline to use for EITEs.

In the interest of equity, consistency, and administrative efficiency, DEQ should use the same baseline data years for all EITE sources whenever practicable. Using a common baseline period provides a consistent and transparent starting point for establishing benchmarks and ensures that facilities are evaluated based on comparable and up-to-date operating conditions. Conversely, allowing different facilities to select different baseline years for different products risks fragmenting the benchmark system, reducing transparency, and creating uneven treatment across sources. Facilities should be treated equally and compared over the same baseline, and DEQ should avoid a scenario where each source selects the

¹⁶ <https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2010/capandtrade10/candtapppb.pdf>.

¹⁷ https://climate.ec.europa.eu/areas-action/carbon-markets/eu-emissions-trading-system-eu-ets/free-allocation/allocation-industrial-installations_en#allocation-based-on-benchmarks.

years most favorable to its desired outcome. To this end, a common baseline also provides greater regulatory certainty by establishing a clear and objective methodology that can be applied consistently across the EITE sector.

We recognize there may be circumstances in which a facility's operations during a particular year are not representative of normal conditions, and are therefore open to the incorporation of verified data from 2026 as well as the ability for facilities to exclude one year from its baseline where it can demonstrate that the year was materially unrepresentative. **Under this approach, DEQ could establish the baseline using the four most recent years of available data, 2023 through 2026, while allowing one year to be excluded where the facility provides sufficient evidence that the year was not representative.** The resulting benchmark would therefore continue to be based on a three-year average, while preserving a common methodology and limiting opportunities for facilities to selectively choose a historical period that produces a more favorable benchmark. Any exclusion should be supported by objective, verifiable evidence and should not become a mechanism for routinely removing years with higher emissions intensity.

c. The EITE reduction schedule should begin in 2028 and not be delayed to 2030, with two-year compliance periods maintained through 2050.

Despite the long regulatory path towards the implementation of an emissions reduction program in Oregon, EITEs have again requested more time to comply with the CPP within RAC conversations, citing long capital expenditure planning horizons as well as technological and infrastructure feasibility concerns. We recognize that industrial decarbonization can require significant planning and capital investment, and that some technologies and infrastructure may take years to deploy. As noted above EITEs have had substantial advance notice that Oregon would impose declining emissions requirements on industrial sources. As discussed above, many regulated entities have acknowledged that they have been preparing for climate regulation for years and have already been planning for or pursuing emissions reductions under the previously adopted CPP rules. By 2028, many sources will have had a decade or more of notice of the direction of Oregon's climate policy and meaningful time to plan for and begin to implement facility changes to meet forthcoming emissions reduction requirements.

Moreover, the flexibility built into DEQ's proposed EITE framework counsels against delaying compliance until 2030. **If DEQ moves forward with its current staff leanings, facilities will be granted significant flexibility in the form of individualized benchmarks, the ability to petition for individualized reduction schedules, rely on Community Climate Investment credits to achieve up to 25% of their compliance obligation, and potentially seek adjustments where they can demonstrate that additional reductions are not feasible.** Taken together, these provisions provide excessive safeguards for addressing legitimate technological, operational, or economic constraints without postponing the start of compliance for all EITEs.

Delaying meaningful compliance until 2030 would therefore unnecessarily postpone emissions reductions from some of Oregon's largest industrial emitters at precisely the time when near-term reductions are most important. Early reductions achieved in 2027, 2028 and 2029 will provide greater cumulative climate benefits than those deferred until later years, while also creating incentives for the early

deployment of cleaner technologies. Near-term reductions would provide earlier public health benefits by reducing co-pollutants from industrial sources and would give communities affected by those facilities immediate benefits. **For these reasons, we do not support moving forward with a compliance timeline set in 2030 after years of regulatory development and advance notice.**

- d. Reduction schedules must be uniform and emissions reductions of 2.5% must be a floor, not a ceiling, for annual reductions.**

DEQ staff's leanings support a uniform reduction schedule across sources, paired with a process for regulated entities to apply for adjustments. We strongly support this general approach. **A uniform reduction schedule provides greater transparency, consistency, and predictability across EITEs while ensuring that covered sources are subject to the same reduction trajectory.** This approach also helps avoid unfair treatment between facilities where similarly situated facilities face materially different requirements based on facility-specific conditions or historical emissions. **However, proposing to allow regulated entities to apply for adjustments to the reduction schedule could undermine the benefits of a uniform schedule.**

However, the benefits of a uniform reduction schedule are contingent on establishing an appropriately ambitious emissions intensity trajectory, something we are concerned is lacking in DEQ staff's leanings. DEQ staff are currently considering annual reductions in emissions intensity of 1-2.5%. **We recommend establishing an annual reduction in emissions intensity that is no less than 2.5%. As stated above, we have concerns with this lack of ambition, particularly on the lower end of the range, especially when compared to peer programs.**

Other jurisdictions demonstrate that EITE programs can incorporate meaningful and predictable reductions in emissions performance or compliance obligations over time. For example, California reduces free allowances to industrial facilities by 3–4% a year and in 2023 industrial emissions were down 16% from the 2015–2019 average. Colorado requires large manufacturers to collectively achieve a 20% reduction by 2030 relative to 2015 levels. **These approaches demonstrate that EITE programs can require increasingly stringent emissions reductions over time that are both financially and technologically feasible.** Oregon should establish an ambitious and predictable emissions-intensity trajectory and provide a clear justification for any approach that results in substantially slower reductions.

The consequences of a less ambitious schedule are also cumulative. Each year a program requiring only a 1 or 1.5% reduction represents delays in additional emissions reductions and necessary investments in the technologies necessary to hasten the climate transition. A predictable and sufficiently ambitious reduction trajectory can provide an important signal for facilities to plan capital investments, adopt emissions-reducing technologies, and improve operational efficiency over time. **Delaying those reductions also delays associated reductions in harmful co-pollutants and the resulting public health benefits for communities near industrial facilities.** DEQ should therefore ensure that the EITE reduction schedule is sufficiently ambitious to drive meaningful near-term reductions and provide a strong, predictable incentive for innovation and investment.

Preliminary analysis demonstrates that a “minimum” emissions reduction target of 15% by 2035 and 55% by 2050 can be achieved at a levelized cost of \$33 per metric ton of carbon dioxide (\$/mtCO₂e), using a 2017-2019 emissions baseline. While this analysis models reductions in absolute emissions rather than emissions intensity, **it demonstrates that meaningful, sustained emissions reductions from EITEs are both technically and economically feasible. Accordingly, DEQ should establish 2.5% annual emissions intensity reductions as the floor for the uniform reduction schedule, not the ceiling.** Regulated entities should retain an opportunity to demonstrate that greater reductions are not appropriate or feasible based on facility-specific circumstances, but the adjustment process should not be structured to routinely weaken the common trajectory.

e. Any flexibility and adjustment considerations must be verified and demonstrated by technological or economic constraints.

If DEQ provides for variation from its uniform reduction schedule, that flexibility should be narrowly tailored to circumstances in which the regulated entity can demonstrate *genuine* technological or economic constraints preventing it from compliance, while maintaining adherence with the CPP’s emissions reduction targets. Adjustment mechanisms should be exceptional, not routine, and structured to function as an alternate compliance pathway. Any adjustment should therefore be subject to clear, objective, and publicly transparent criteria. At a minimum, an applicant should be required to demonstrate that: compliance with the schedule is not technically or economically feasible, the constraint is material and cannot reasonably be addressed, the circumstance was not reasonably foreseeable when the reduction schedule was established, and the requested adjustment is no broader than necessary. DEQ should also require independent technical review or verification of material claims and make the basis for any approved adjustment publicly available. Adjustments should be time-limited and subject to periodic review to determine whether the underlying constraint continues to justify relief.

The adjustment process should not be used to reward weak baseline performance, compensate facilities for historical underinvestment in emissions-reducing technologies, or revisit policy choices that DEQ has already made through the benchmark-setting process. Nor should generalized claims about a facility's historical emissions, competitiveness, profitability, or compliance costs be sufficient, standing alone, to justify a reduction below the common schedule. Those considerations may be relevant to the design of the EITE program as a whole, but they should not provide an open-ended basis for individual facilities to negotiate less stringent requirements.

Additionally, DEQ should establish safeguards to ensure that adjustments do not erode the overall integrity of the CPP. Any reduction in required emissions reductions for one facility should be evaluated against the program's aggregate emissions objectives, and DEQ should track and publicly report approved adjustments, their duration, the emissions reductions affected, and the basis for approval. This transparency is particularly important because facility-specific adjustments can otherwise become difficult to evaluate collectively and could, over time, substantially weaken the program relative to the trajectory established by the uniform schedule. **A well-designed adjustment mechanism should provide targeted relief where genuinely necessary while preserving the established annual reduction schedule as the minimum expectation for the EITE sector as a whole.**

Any flexibility that allows an EITE to follow a weaker emissions-intensity trajectory than the standard should be treated as an additional benefit to the regulated entity and should therefore include a meaningful community benefit requirement, such as a legally enforceable Community Benefit Agreement between affected communities, labor, and the EITE that balances benefits for workers, climate, and frontline communities.

f. Regulatory flexibility for EITEs should also serve as an opportunity to integrate community benefits with technological innovations.

The EITE program also presents an opportunity to connect industrial decarbonization investments with tangible community benefits and a just transition- especially given the customizable and flexible program implementation being currently proposed. We believe flexibility in the program should not be automatic, EITE's must demonstrate or become eligible by demonstrating 1) history of compliance with state and federal laws, 2) history of being a responsible employer, such as demonstrating collective bargaining agreements or labor harmony agreements, 3) history of being a good neighbor to fenceline communities, such as demonstrating good neighbor agreements..

Additionally, regulatory flexibility and additional time given to EITEs to comply with emissions reductions should also mean available time and flexibility and support for workers in their transition to learning and being integrated into new technologies. As facilities invest in emissions-reducing technologies, DEQ and EITEs should use this flexibility to encourage innovative, community-centered commitments, including Community Benefit Agreements that ensure workers are not left behind, and nearby communities share in the benefits of those investments. These agreements could connect new technological innovation and emissions reductions with commitments to local hiring, a skilled and trained workforce, living wages, improved air quality, community investments, or other priorities identified by impacted communities.

Integrating community benefits into the EITE framework would help ensure that industrial decarbonization is not only an opportunity to reduce greenhouse gas emissions, but also a means of delivering meaningful economic and public health benefits to communities that have historically borne disproportionate environmental burdens. It would also provide a training opportunity and an avenue for industry and communities to implement and build shared support for investments in cleaner technologies and the transition to a lower-carbon industrial sector.

g. Leakage protections should be grounded in a clear definition and evidence of actual leakage risk, and if leakage occurs based on the shared definition, it must be reported to DEQ.

Throughout this rulemaking, EITEs have emphasized that substantial flexibility is needed to prevent leakage. We share industry's concerns that genuine leakage would undermine the CPP's ability to maximize climate, community, and economic benefits by shifting jobs and emissions to jurisdictions with less stringent environmental requirements. At the same time, policy decisions regarding leakage should be informed by evidence of *actual* economic and operational impacts rather than generalized assertions about what may happen. **DEQ should establish a clear definition and shared understanding of leakage risk, including the circumstances and evidence that would demonstrate that leakage is occurring or is reasonably likely to occur.** Without a clear framework for identifying and measuring

leakage, it is difficult to assess whether the aboveforementioned proposed additional flexibility mechanisms are necessary, whether they would effectively address the underlying risk, or whether they are instead weakening incentives to reduce emissions without delivering a corresponding benefit.

We therefore respectfully request that DEQ establish a process for tracking and reporting on relevant leakage indicators, competitiveness impacts, and actual leakage. Such information could include significant changes in production, employment, facility investment, output, or relocation where there is evidence that CPP compliance is identified as a material factor or impetus.

The transparent tracking of these indicators would provide an important accountability mechanism and allow DEQ to distinguish demonstrated leakage risks from speculative claims about potential relocation. Such information would also give DEQ a stronger evidentiary basis to accurately evaluate whether the EITE program is producing the intended environmental and economic outcomes. Better information about the actual impacts in Oregon will help DEQ develop a more targeted response, capable of addressing legitimate competitiveness concerns while protecting the well-being of affected communities by providing worker-transition assistance, incentives for cleaner in-state operations, and coordination with other states to prevent a race to the bottom in environmental standards. This approach would allow Oregon to respond to demonstrated leakage risks without providing broad or indefinite flexibility that could unnecessarily weaken the program's emissions reduction requirements.

In addition we recommend DEQ include:

- DEQ adopting a standardized Template Leakage Reporting Form;
- Requiring leakage reporting of plant closures and layoffs to Oregon DEQ, Workforce Investments Board, Labor agency such as BOLI, local government, and media that historically reports on workforce/labor issues (i.e. NW Labor Press) with 60 day notice;
- EITEs adopting a workforce transition plan that includes but not limited to workers assistance, retirement plans, worker relocation, retraining, etc.

VI. Conclusion

We appreciate DEQ's continued engagement with a broad range of stakeholders throughout this rulemaking and recognize the complexity of designing an EITE framework that balances leakage risk, economic competitiveness, and the imperative to reduce greenhouse gas emissions and deliver meaningful benefits for frontline communities. At the same time, flexibility for EITEs should not come at the expense of the Climate Protection Program's core emissions and environmental justice objectives. The undersigned therefore urge DEQ to revise its current staff leanings to ensure that the final EITE framework establishes clear, predictable, and enforceable emissions reductions, preserves the integrity of the CPP's overall emissions trajectory, and provides sufficient flexibility to address demonstrated economic and technological constraints. Done well, the EITE framework can support both a competitive Oregon economy while delivering timely emissions reductions, reducing harmful pollution in the communities most burdened by industrial emissions, and advancing the environmental justice and climate outcomes at the heart of the CPP.

Sincerely,

/s/ Nora Apter
Oregon Director
Climate Solutions

/s/ Carra Sahler
Director and Staff Attorney
/s/ Alex Houston
Staff Attorney
Green Energy Institute at Lewis & Clark Law School

/s/ Tim Miller
Director
Oregon Business for Climate

/s/ Ben Brint
Senior Climate Program Director
Oregon Environmental Council

/s/ Jamie Pang
Deputy Director of Programs and Policy
Oregon Just Transition Alliance

/s/ Ranfis Giannettino Villatoro
Senior Policy Manager
BlueGreen Alliance



We Feed You

August 14, 2026

Evan Manvel

Oregon DEQ

Submitted Via Email: CPP.EITE@DEQ.oregon.gov

RE: CPP EITE Rulemaking RAC #2 Comments

Dear Evan,

As a member of the RAC, Food Northwest appreciates the opportunity to provide comments on DEQ's **RAC 2 Policy Memo**.

Food Northwest is a 112-year-old regional trade association representing food manufacturers in Oregon, Washington, and Idaho. We have five regulated EITE facilities in Oregon and nine in Washington under that state's Climate Commitment Act. In addition, several of our members have facilities in California subject to the California Cap & Trade Program.

Below are Food Northwest's responses to DEQ's questions and additional thoughts on the subjects raised in the memo.

1. Benchmarks

We agree with DEQ's leaning toward creating source-specific benchmarks and, when requested by the source, source-specific product-differentiated benchmarks.

The program should allow EITEs with process emissions to determine whether their benchmark includes both process and combustion emissions or whether separate benchmarks are appropriate.

We also agree with DEQ's conclusion that using sector benchmarks or benchmarks across multiple sources is inadvisable because too many factors come into play to make accurate comparisons. In our work on energy-intensity reduction in the food industry, we found that this was indeed the case and abandoned this approach.

DEQ Questions: *Is there something non-representative about the most recent years of 2023-2025? Should DEQ incorporate more recent emissions data like 2026?*

Restricting the baseline to the 2023-2025 window is overly rigid. Agricultural processing yields and production volumes fluctuate significantly due to multi-year climate events and supply chain dynamics. Furthermore, this narrow window fails to credit facilities for

proactive, capital-intensive energy-efficiency upgrades implemented before 2023. Facilities must be allowed to select representative operational years (or an average of years prior to early-action investments) without facing an insurmountable regulatory burden of proof. Incorporating 2026 data should be an option if it represents typical operations, but it should not be a mandate that replaces baseline flexibility.

To capture the fluctuating production cycles, we believe the benchmarks should be based on the average of three years within the 2015–2025 timeframe.

We also recommend that DEQ include a process to apply for an adjustment to the benchmark baseline.

DEQ should account for previous investments by EITEs to reduce emissions. Companies that have made costly process changes or capital investments (for example, a high-efficiency natural gas boiler) may not be in a position to make significant additional changes or trade out existing, relatively new equipment for different technologies. They should not be penalized for voluntary early actions to reduce emissions. To account for prior investments to reduce emissions, the baseline could be based on the average of several years before the emissions reductions resulting from those investments.

2. Reduction Schedules

DEQ Questions: *Should reductions start before 2030-31? What are your thoughts on an annual reduction of between 1-2.5%?*

Reductions should not begin before the 2030-2031 period. Complex engineering cycles for industrial retrofits require 3 to 5 years for budgeting, design, permitting, and installation. An annual reduction of 1% to 2.5% remains far too aggressive for hard-to-abate thermal processes and will trigger economic and emissions leakage. Any annual reduction must be capped at 1% or less, explicitly tied to the technical and economic feasibility and commercial availability of emissions reduction technologies, and evaluated over a 4-year compliance period rather than a 2-year period.

A comparison of Oregon and Washington programs is valid for food processing because, for the most part, the food processing EITEs are the same companies. If the Oregon program is more stringent and costly than the Washington program, these Oregon companies could move production to Washington, resulting in economic and jobs leakage.

3. Adjustments to Reduction Schedules

DEQ Questions: *Thoughts on the adjustment process? What should sources demonstrate? Should adjustments apply for longer than one compliance period?*

A robust adjustment mechanism is vital, but DEQ's proposal to force facilities to endure the 2030-2031 reduction period *before* applying is unworkable. Facilities must be eligible to apply for adjustments before reduction obligations begin if they can demonstrate that the required reductions are not technologically or economically feasible. Applications should rely on facility-provided engineering and economic feasibility assessments, without requiring costly, time-consuming third-party certifications. Once granted, adjustments should cover at least a full 4-year compliance period, or longer if demonstrated necessary, to provide the regulatory and financial certainty needed for major capital investments. Economic assessments must also account for Oregon's specific compliance costs, such as the massive competitive disadvantage created by the \$131 or higher cost per MT CO₂ Community Climate Investment price, to accurately gauge feasibility.

Adjustments to the reduction schedule are critical to prevent leakage. This could include an upward adjustment to the allocation of free allowances and the benchmark, or, in some cases, a "pause" in compliance. For example, such adjustments could be warranted by changes in the manufacturing process that materially affect emissions, changes in the external competitive environment, abnormal operating periods for various reasons, or the fact that further reductions in emissions are not technically or economically feasible. Washington uses the source's best available technology analysis, as well as an assessment of technically and economically feasible measures provided by sources (from Washington's [SB 6246](#), Sec. 1(9)(b)(iii), passed this year), when making such adjustments.

4. Significant Production Downturns

DEQ Questions: *Should DEQ consider a different method for distributing instruments if there has been a significant production downturn? Which approach?*

Food Northwest appreciates DEQ's recognition that significant production downturns can occur for a variety of reasons and that these downturns increase emissions intensity. An emissions-intensity approach artificially inflates a facility's intensity metric during a production downturn due to fixed baseload thermal requirements, effectively penalizing the facility during periods of economic stress. Reliance on market flexibility mechanisms in the program is not a realistic approach. Companies experiencing a production downturn are likely also experiencing a revenue downturn, and purchasing compliance instruments or community climate investments could increase financial distress. We also would not rely on borrowing from future compliance periods, as this would impose administrative burdens on DEQ and additional financial burdens on facilities.

We urge DEQ to rely on the reduction schedule adjustment process and to allow for a temporary pause in compliance obligations if warranted.

5. Privacy of Production Data

DEQ Questions: *Are there approaches to keep production numbers confidential? Is a mass-based benchmark a worthwhile compromise?*

A mass-based benchmark is not an acceptable compromise because it fundamentally eliminates the program's ability to accommodate production growth, which is the core benefit of an intensity-based system. Exposing this proprietary data would allow out-of-state competitors to reverse-engineer facility capacities and cost structures, giving them an unfair market advantage.

Food Northwest EITs are greatly concerned about the apparent lack of protection for their sensitive information. The inability to protect sensitive data from public disclosure makes the CPP an unworkable program for EITs and a potential major cause of leakage. As I reported at the RAC meeting, Food Northwest was unable to proceed with data collection for our energy intensity reduction program until we had signed non-disclosure agreements with the 80 participating facilities and provided a dedicated, secure computer with access limited to two staff members on which data would reside.

DEQ must work with legal counsel to establish binding mechanisms that mask facility-specific information. DEQ should consider the recent approach used in Washington. Confidentiality was a key issue for EITs in Washington's Climate Commitment Act program. In 2026, an amendment to the Act was passed to protect EITs' sensitive information. Sec. 1 (9)(f) of [SB 6246](#) provides:

Information contained in assessments submitted to the department by an emissions-intensive, trade-exposed facility under this subsection (9) are records containing financial, proprietary, and other market-sensitive information in accordance with RCW 70A.65.100(9)(c), and such assessments are fully exempt from public disclosure in their entirety. The department may summarize information contained in assessments submitted under this subsection (9) in an aggregated manner that does not allow for the identification of any facility-specific financial, proprietary, or market-sensitive information.

6. Use of Community Climate Investment (CCI) Credits

DEQ Questions: *Should DEQ increase the 20% limit on using CCI credits? Should any increase be available anytime?*

We support increasing the allowable usage of CCI credits to 25% or higher. Furthermore, the rules forcing CCI credits to expire must be removed; indefinite banking is necessary to help facilities manage long-term compliance and shifting crop cycles. However, an increase in allowable usage must be paired with cost-containment measures. At the CCI prices in Table 6, CCIs likely will not be a useful compliance option. With CCI prices two to four times higher than purchased allowances in California and Washington, Oregon EITs will be

economically disadvantaged relative to their competitors in these states, raising leakage concerns.

High CCI prices will have additional economic impacts. The California Legislative Analyst's Office 2025 Report on the California Cap & Trade Program calculated the relationship between the price per allowance and the per-gallon retail gasoline price impact. The multiplier they used was about 0.79. Applying California's calculation to the 2028 CCI price of \$131 per MTCO₂ results in an unsustainable \$1.04 per gallon-equivalent fuel impact, which will increase annually. Because Oregon lacks the protective price ceilings used by Washington and California, this structure severely threatens the competitiveness of EITEs and other Oregon businesses, as well as the pocketbooks of Oregon consumers.

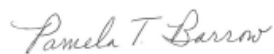
7. Program Review and Evaluation

DEQ Questions: *Is there any additional program data on EITE implementation that should be included in the annual report to the EQC or the five-year program review?*

Annual reports and 5-year program reviews must include a comparative economic impact analysis. This analysis should explicitly track EITE compliance costs, CCI pricing, and energy rate impacts relative to neighboring states (such as Washington and California) to actively monitor, quantify, and mitigate EITE and business leakage.

Food Northwest appreciates the opportunity to provide comments and looks forward to further discussion of these topics in the rulemaking process.

Sincerely,



Pamela Barrow
Vice President, Food Northwest



intel.com

August 18, 2026

Mr. Evan Manvel
Department of Environmental Quality
Climate Protection Program
700 NE Multnomah St., Suite 600
Portland, Oregon 97232-5263

Re: Intel Corporation, Ronler and Aloha Campus
Climate Protection Program EITE Rulemaking Advisory Committee Meeting 2 Request for Feedback

Dear Mr. Manvel,

Intel Corporation ("Intel") submits the following responses to DEQ's request for feedback on the July 29, 2026 Rulemaking Advisory Committee (RAC) meeting and DEQ's related RAC 2 policy materials. Intel appreciates DEQ's continued engagement with emissions-intensive, trade-exposed ("EITE") sources as the agency develops Climate Protection Program ("CPP") rules intended to reduce greenhouse gas ("GHG") emissions from EITE sources while recognizing the special circumstances those Oregon businesses face as trade-exposed and their important role in Oregon's economy.

Intel is a semiconductor manufacturer with two facilities in Washington County, Oregon: Gordon Moore Park at Ronler Acres ("Ronler Acres") and Aloha. These facilities are designated as covered EITE entities under the CPP because their operations are listed in OAR 340-273-9000, Table 7, and their covered emissions exceed 15,000 metric tons of carbon dioxide equivalent ("CO₂e") annually.

Intel's Oregon operations represent the company's largest and most comprehensive site globally, serving as a hub for semiconductor research and manufacturing and as a cornerstone of Oregon's economy. Intel has led a multi-decade effort to reduce GHG emissions through chemical substitution, process optimization, point-of-use abatement, energy conservation, and renewable and alternative electricity procurement. These prior investments are material and should be reflected in a CPP EITE framework that supports additional feasible reductions without discouraging continued manufacturing investment in Oregon.

Intel offers the following comments, recommendations, and requests to help ensure the CPP enables Intel's continued operation and growth of its EITE facilities in Oregon, supports real and technically feasible emissions reductions, protects confidential production information, and reduces leakage risk.

1. Benchmarks should be source-specific and based on representative data.

Intel supports DEQ's current leaning toward source-specific benchmarks and agrees that industry-wide or product-wide benchmarks would not appropriately reflect Oregon's small and diverse EITE population. For semiconductor manufacturing, the absence of comparable leading-edge logic fabs and the highly specialized nature of process flows, production tools, and process chemistries make direct cross-facility comparisons unreliable.

Intel also supports DEQ's recognition that the contemplated 2023-2025 data period will not be representative for every EITE source. For Intel, recent annual emissions intensity has varied significantly as production activity, product mix, research and development activity, and process complexity have changed over time. As a result, setting the benchmark for Intel's operations based on average covered emissions from 2023-2025 will increase the likelihood that Intel will not be allocated sufficient compliance instruments in 2028, resulting in a shortfall during the first year of the program before any reductions have gone into effect. Furthermore, an arbitrary selection of averaged years as baseline does not capture typical business variability. Accordingly, though setting benchmarks based on data from 2023-2025 may initially appear more simple to administer,

doing that will result in a benchmark that is not representative of Intel's operations.

DEQ should therefore acknowledge that applying an average intensity will result in half of sources experiencing compliance instrument shortfalls during the initial no-reduction compliance period in 2028. To account for year-to-year variability in intensity, Intel recommends using the average of the 2023-2025 production intensities plus 2 standard deviation of those production intensities to create a more reliable baseline accounting for business variability.

As an alternative to the use of the 2023-2025 average production intensity plus 2 standard deviation, DEQ could work with each EITE source to identify representative baseline years from which to establish each source's benchmark carbon intensity. Sources could then calculate the average of any two years identified by the source as representative between 2020 and 2026, with opportunities for the source to identify other, previous years where significant operational changes, curtailments, product transitions, business cycles or other conditions make the default approach unrepresentative.

Intel supports DEQ's continuing work to identify appropriate source-specific production or activity metrics. The benchmark rules should also provide a mechanism to revisit and revise the benchmark when changes in production mix, process technology, product demand, or new product introductions materially affect emissions intensity. Rulemaking should also comprehend new product ramps, exempting those initial emissions from the program will encourage growth in the state and allow for adequate benchmark data collection.

2. Reduction schedules should be achievable, aligned with feasibility, and no more aggressive than neighboring programs during early implementation.

Intel supports reductions starting no earlier than the 2030-2031 compliance period. Even a 2030 start date is aggressive as the EITE rules, benchmark units, benchmark values, and adjustment procedures will not be fully resolved until shortly before the first compliance period. Large industrial reductions require time to evaluate options, obtain funding, complete engineering design, secure utility and supplier commitments, obtain permits, procure long-lead equipment, install systems, and complete commissioning while maintaining safe and reliable manufacturing operations.

DEQ's proposed 1.0%-2.5% annual reduction range should be narrowed substantially for the early years of the program. Intel recommends aligning Oregon's early reduction trajectory with Washington's approach, generally no more than approximately 1% per year during initial compliance periods. An early 2.5% annual reduction rate would be especially challenging for facilities like Intel that have already made significant investments in GHG abatement and process optimization and whose remaining Scope 1 emissions are largely associated with process-critical chemistries or environmental-control systems.

3. Adjustment procedures are essential, but they must be timely, durable, and administratively reasonable.

Intel appreciates DEQ's support for a reduction schedule adjustment process and views it as essential to a workable EITE framework. The process should address both technical feasibility and economic feasibility. It should also account for emissions associated with code-required, permit-required, and safety-critical systems, including environmental controls that require natural gas or other energy inputs to reduce hazardous air pollutants, VOCs, fluorinated gases, or other regulated emissions.

DEQ should not require sources to wait until after the 2030-2031 compliance period to apply for an adjustment. Major capital projects can require a timeline of five or more years from conceptual planning through permitting, funding, design, construction, commissioning, and integration into operating facilities. A source needs to know whether an adjustment will be granted years before the compliance period at issue. Intel recommends that DEQ allow applications sufficiently in advance of the first compliance period with reduction requirements and commit to clear review timelines so companies can make investment decisions with reasonable certainty.

Similarly, a reduction schedule adjustment should remain effective for at least three compliance periods, or for another multi-period duration determined by DEQ based on the facts of the application. Limiting an adjustment to only the next compliance period would create a continuous paperwork cycle for both DEQ and EITE sources without materially improving environmental outcomes. If DEQ needs updated information during an adjustment period, periodic progress reports would be more efficient than complete reapplication every two years.

The contents of an adjustment application should be scaled to the source and should focus on mature, commercially available, technically applicable reduction measures. Intel recommends a BACT-like approach under which the analysis is organized by source category and relies on representative equipment or representative cases rather than requiring analysis of every individual unit. For example, a facility with multiple substantially similar boilers, abatement units, or process-gas source categories should not need to perform a complete stand-alone analysis for each individual piece of equipment.

The application should not require outside certification. Companies and DEQ are the entities with the relevant facility-specific and regulatory expertise. Third-party certification would add cost, delay, and confidentiality concerns without necessarily improving the quality of DEQ's technical review.

Economic assessments should be grounded in real project costs, operational impacts, reliability constraints, the financial wherewithal of the source and available financial incentives.

4. The CPP should include a mechanism to address significant production downturns and other extenuating circumstances.

Intel supports DEQ's recognition that an intensity-based allocation can create challenges during significant production downturns. When production declines, emissions intensity can increase because certain systems must continue operating for safety, environmental compliance, facility readiness, or process stability even if fewer units are produced. In that circumstance, requiring a source to purchase additional compliance instruments or CCI credits can increase financial stress precisely when revenues are reduced.

DEQ should retain the discretion to provide emergency or extenuating-circumstance relief such as reserve instruments, temporary adjustments, or other mechanisms that can be applied when a source experiences a material production decline or other abnormal event outside the normal range of operations. The rule should give DEQ the ability to respond quickly rather than requiring a source to wait for the next full adjustment cycle.

5. DEQ should strengthen protections for confidential production, cost, and technical information.

Intel appreciates DEQ's attention to production data confidentiality. Production activity, process complexity, production mix, utilization, negotiated supplier costs, and detailed abatement configurations can be highly sensitive to manufacturers and their suppliers. DEQ should provide specific rule language and procedures to protect confidential business information to maintain Oregon's competitiveness. More specifically, Intel requests that DEQ develop proposed rule language to explain how DEQ will accept, review and maintain "trade secret" information.

6. CCI credit limits should be flexible enough to prevent avoidable leakage, but they are not a substitute for feasible reduction schedules and adjustments.

Intel supports increasing the CCI credit limit for EITE sources, and DEQ should consider allowing EITEs to use CCI credits without a fixed percentage cap where needed to ensure compliance with the CPP rules and to prevent leakage. At minimum, the CCI credit limit should be materially greater than the current 20% limit and should be available at the company's discretion rather than only under narrow conditions.

At the same time, CCIs should not be treated as a substitute for reasonable benchmarks, achievable reduction schedules, and durable adjustment mechanisms. The rule should be structured to prioritize feasible on-site reductions while preserving flexible compliance tools when reductions are not currently feasible.

Intel appreciates DEQ's engagement with EITE sources and the opportunity to provide comments on the RAC 2 materials. Intel looks forward to continuing to work with DEQ and RAC members on a CPP EITE framework that achieves additional feasible emissions reductions, protects confidential business information, prevents leakage, and supports continued semiconductor research and manufacturing in Oregon.

August 7, 2026

Nicole Singh

Oregon Department of Environmental Quality

Office of GHG Programs

700 NE Multnomah Street, Suite 600

Portland, Oregon 97232

cpp.info@deq.oregon.gov

RE: Comment Letter — Climate Protection Program Emissions-Intensive, Trade-Exposed (EITE) Rulemaking (Advisory Committee Meeting 2 Comment Period)

Dear Ms. Singh:

Microchip Technology, Inc. ("Microchip") appreciates the opportunity to participate on the Rulemaking Advisory Committee and submits these comments on the questions DEQ posed at Advisory Committee Meeting 2.

Microchip operates a semiconductor fabrication facility in Gresham, Oregon, classified under NAICS 3344, a sector listed in Table 7 of OAR 340-273-9000, and a covered EITE source under OAR 340-273-0110(5). The Gresham fab employs approximately seven hundred Oregonians and supplies analog and mixed-signal products to United States and global markets. It is a mature-node facility. Much of its equipment dates to the 1990s, and its process flows, chemistries, and emissions profile differ fundamentally from those of other semiconductor fabs.

1. Microchip and this rulemaking

Microchip supports the program's goals of reducing greenhouse gas emissions, improving air quality, supporting Oregon's economy, and benefiting environmental-justice communities. Our comments focus on how DEQ can prevent leakage while securing emissions reductions that Oregon facilities can realistically deliver.

2. Benchmarks

DEQ should use source-specific carbon-intensity benchmarks and allow each covered EITE source to select the production metric that reflects its operations. The benchmark should also account for voluntary controls installed before the rule applied.

Oregon fabs do not run the same products on the same equipment at the same utilization. Tool generation, process chemistry, control equipment, and product mix all affect emissions per unit of production. An industry-average denominator for NAICS 3344 would misstate the intensity of individual fabs, so DEQ should set the benchmark at the source level.

The appropriate production metric will vary by sector, which supports the use of source-specific benchmarks. For Microchip, that metric is the “move”: one process step performed on one wafer through one production tool. Moves scale with covered emissions and can be audited against the fab’s routine production records.

For each benchmark, DEQ should identify the production metric, explain how the source must count it, and specify the production and emissions records that control the calculation.

A benchmark should not turn early voluntary reductions into a permanent disadvantage. If DEQ bases a benchmark on emissions a source already reduced voluntarily, the source receives a tighter target for having acted early, while a source that waited receives a looser one.

Microchip asks DEQ to allow a covered EITE source to base its benchmark on normal facility operations, rather than on an artificially low emissions level achieved only because the source installed voluntary controls before the rule applied.

A source-specific benchmark describes operations during a specific baseline period. If a source later changes its process or product mix in a way that materially changes intensity, DEQ should allow the benchmark to be revised through the adjustment process described in Section 5.

Oregon’s rules already address a related circumstance. Under OAR 340-273-0410(6), a source that begins operations after the program starts draws its baseline from the most recent available data rather than from a fixed historical window. Its reduction target begins at full value and then declines gradually. Microchip recommends similar flexibility, through the application process described in Section 5, when an existing covered EITE source materially changes its processes or products.

3. Data years

DEQ should use each source’s highest representative verified year or years, allow data back to 2017, and approve alternative years when the default period does not reflect normal operations.

Using a source’s highest representative year or years would better reflect the production variation experienced by a trade-exposed manufacturer. It would also reduce the risk that a fixed set of years captures an unusually low or otherwise unrepresentative period.

OAR 340-273-0410(5) already treats 2017–2024 data as suitable for determining compliance instruments when default-year data are unavailable. DEQ should allow covered EITE sources to use that same data span when selecting representative baseline years.

The standard for alternative years should not be limited to shutdowns or other extreme events. Ordinary production swings can materially change reported intensity even when the fab’s equipment performs the same. A source should qualify for alternative years when audited production records and verified emissions data show that the default period is not representative.

At a fab, a substantial portion of combustion emissions is fixed overhead. When production falls, those fixed emissions are spread across fewer production units, so reported carbon intensity rises even if the facility’s per-unit performance has not worsened.

This relationship means that a material change in production volume—not only a shutdown or major process change—can make fixed data years unrepresentative. DEQ can evaluate that condition using the production data and third-party-verified emissions data the program already collects.

Microchip supports allowing 2026 verified data as it becomes available, because it would give DEQ a more current view of normal production and emissions performance.

4. Reduction schedules

DEQ should not apply the current Table 8 schedule to covered EITE sources without adjustment. The rule should hold the multiplier at full value during the early compliance periods and publish the full schedule now so sources can plan capital projects against known requirements.

On-site abatement projects require engineering, vendor qualification, capital approval, permitting, procurement, and installation during limited shutdown windows. The source must then commission the system and verify emissions performance. Early compliance deadlines that arrive before those steps can be completed do not accelerate reductions; they force the source to rely on compliance instruments instead of installed controls.

Holding the multiplier at full value during the early compliance periods would not change the long-term reduction trajectory. It would give sources time to complete on-site abatement projects while preserving the incentive to reduce emissions early, because instruments generated through early reductions can be banked for later compliance periods.

5. Adjustment process for infeasible reductions, changed operations, and production downturns

DEQ should establish a formal, source-specific adjustment process for infeasible abatement, material process or product changes, and significant production downturns. The process should allow an alternative schedule, an alternative mass basis, or a revised benchmark. Approved relief should remain in place while the qualifying condition continues.

No schedule adopted today can anticipate every equipment constraint, production change, or capital limitation over the life of the program. DEQ needs a defined process to review source records and determine whether the default calculation requires reductions that cannot be delivered during the compliance period. Washington's WAC 173-446-220 offers a useful example of an application process and decision record, but Oregon should tailor the criteria to its covered sources.

An alternative schedule will not always correct the problem. If abatement is unavailable or production falls sharply, the default intensity calculation can produce an obligation that does not match the source's current operating conditions. In that case, DEQ should allow an alternative mass basis for the approved period. A source should receive relief after submitting an application and only when the requested adjustment would produce a lower obligation than the otherwise applicable intensity-based calculation.

An applicant should identify the reduction measures it evaluated, the emissions reduction expected from each measure, and the reason each measure is or is not feasible. It should also provide capital and operating cost, available incentives, energy and environmental impacts, the implementation schedule, and supporting engineering or vendor information.

Comparing against the abatement strategies deployed at facilities conducting similar operations is a sound input, and Microchip supports including it. A source can describe what is publicly known, but a like-for-like comparison across facilities is often not obtainable. DEQ should therefore treat that element as informative where the information exists, not as a required showing.

DEQ should state the criteria it will apply, not only the materials a source must submit. Filing requirements tell a source what to provide; decision criteria tell it how DEQ will judge the application.

Feasibility should be assessed against the full implementation timeline. A measure is not available for a compliance period if it cannot be designed, funded, procured, permitted, installed, commissioned, and verified before the compliance demonstration for that period.

If DEQ denies an application, it should issue the decision early enough for the source to use another compliance option. A late denial for the immediately following compliance period could leave the source without a workable alternative.

An approved adjustment should remain in effect while the underlying technical, economic, or operating constraint continues. Semiconductor capital projects and demand cycles often extend beyond one compliance period, and a downturn may also reduce the capital available for abatement. DEQ should not require a new application when the relevant facts have not changed.

6. Privacy of production data

DEQ should protect source-specific production volumes, benchmark values, emissions inputs, and control specifications from disclosure. Oregon's confidentiality provisions provide the legal basis for that treatment while allowing DEQ to retain an intensity-based compliance metric.

Microchip requests that DEQ keep production data confidential. Production volumes, intensity ratios, and control specifications are competitively sensitive information, and ORS 192.345(2) exempts trade secrets, including production data, from disclosure unless the public interest requires disclosure in a particular instance.

Microchip recognizes that publicly available emissions, benchmark, and instrument-distribution data could be combined to estimate a source's production. DEQ should address that risk by publishing source-specific values only at a level of aggregation that prevents production data from being inferred.

Microchip does not object to DEQ identifying the proposed unit of production—the move—at a future meeting, provided the benchmark value and underlying emissions and production data remain confidential. The definition of the metric is not sensitive; the source-specific values calculated from it are.

7. Use of Community Climate Investment credits

DEQ should allow covered EITE sources to use CCI credits for the full compliance obligation and carry unused credits into later compliance periods. OAR 340-273-0450(4)(a)(B) now limits credit use to the percentage in Table 5 of OAR 340-273-9000.

The cap does not reduce the obligation; it changes how the source may satisfy it. CCI credits have a price set by rule. Transferred instruments do not have a published price, a guaranteed seller, or a transparent market. After reaching the CCI cap, a source may have to buy from a thin market at an unknown cost.

CCI credits are the only compliance option with a price established by rule. Because the contribution amount is set in OAR 340-273-9000 Table 6 and adjusted for inflation under OAR 340-273-0820(3), a covered source can estimate that portion of its compliance cost years in advance and expect the cost to remain approximately constant in real terms.

CCI credits deliver real reductions. The funds go to emission-reduction projects in the communities the program is designed to benefit, under the purposes set out in OAR 340-273-0900. A higher cap directs more funding to them.

Unused credits should carry forward because the contribution has already funded the associated emissions reduction. Canceling a credit after payment would provide no additional environmental benefit and would require the source to pay again for a reduction the program has already secured.

8. Program review and evaluation

DEQ should use the review required by OAR 340-273-8100(3) to decide whether the covered-EITE schedule remains technically achievable and economically supportable for trade-exposed facilities.

The review should examine measured performance from installed controls, project lead times, remaining reduction options, production changes, and the difference between Oregon carbon costs and those in competing manufacturing locations.

9. Conclusion

Microchip appreciates DEQ's work on this rulemaking. The recommendations above are intended to support an EITE framework that reduces emissions at Oregon facilities without shifting trade-exposed manufacturing and its associated emissions to other jurisdictions.

Thank you for the opportunity to comment.

Sincerely,

Oteri Oghoghomeh, CIH

Environmental, Health and Safety Manager

Microchip Technology, Inc. — Gresham, Oregon

August 13, 2026

Department of Environmental Quality
State of Oregon
700 NE Multnomah Street, Suite 600
Portland, Oregon 97232-4100

RE: Comments on Climate Protection Program Emissions-Intensive, Trade-Exposed Entities Rulemaking

Dear Department of Environmental Quality Staff,

Thank you for the opportunity to provide comments following the second Rulemaking Advisory Committee meeting regarding emissions-intensive, trade-exposed (EITE) entities and direct natural gas (DNG) sources. We appreciate the opportunity to participate in this process and to share our perspective on regulations that will materially affect Oregon employers, energy providers, and customers.

As stated in our previous comments, NWGA supports reducing greenhouse gas emissions while preserving reliability, affordability, and Oregon's economic strength. Our feedback is guided by three principles: utilities must maintain sufficient year-round resources to serve customers; a one-size-fits-all approach will not adequately reflect facility-specific circumstances; and the cost of this transition must remain affordable for consumers while allowing businesses to grow in Oregon.

Based on these principles, NWGA offers the following policy recommendations for this rulemaking.

Protect Non-EITE and Non-DNG Consumers from Cost Shifting

This rulemaking should ensure that compliance obligations are allocated fairly and do not shift costs from EITE facilities or DNG sources to local distribution companies, fuel suppliers, small businesses, or residential customers. If certain emissions reductions are technically or economically infeasible within the required timeframe, other customers should not bear those costs through higher energy prices. Protecting non-EITE and non-DNG customers from unintended cost impacts should be a central program design principle.

Prevent Emissions Leakage and Economic Leakage

The Climate Protection Program should achieve real emissions reductions, not simply move emissions or economic activity outside Oregon. If compliance obligations exceed what is technically or economically achievable, facilities may reduce production, delay investment, or relocate to jurisdictions with less stringent requirements. That outcome could reduce Oregon jobs, investment, and tax base while leaving global emissions unchanged or higher. Rules should preserve Oregon's industrial competitiveness while encouraging achievable reductions based on technical feasibility, market conditions, and competitive impacts.

Promote Regional Consistency with Washington's Climate Commitment Act

Where practical, Oregon should align key elements of its Climate Protection Program with Washington's Climate Commitment Act. Many regulated entities operate facilities, supply chains, and energy infrastructure across state lines, and major differences in compliance requirements can increase complexity, costs, and investment uncertainty. Regional consistency would improve predictability, reduce competitive disparities, and lessen incentives to relocate production or investment based on differences in climate policy. Oregon's program should still reflect state-specific requirements while harmonizing major elements such as compliance schedules, benchmarking approaches, and treatment of confidential business information.

We appreciate DEQ's transparency and its willingness to incorporate stakeholder feedback as it develops these regulations. However, NWGA members remain concerned that the current starting point for this rulemaking is a fixed overall emissions cap that could create systemic inequities if EITE and DNG emissions are not treated with sufficient precision. A fixed cap, without a clear analysis of what emissions can actually be reduced within a reasonable timeframe, may shift compliance burdens to other program participants, including fuel suppliers, local distribution companies, small businesses, industrial customers, and residential customers. In practice, if certain EITE emissions are technically or economically infeasible to abate, the reductions required to preserve the integrity of the cap may fall on sectors and customers with fewer options and less ability to absorb increased costs.

This concern is heightened by the diversity of the facilities expected to be subject to this program. DEQ has identified EITE sectors that include pulp and paper, iron and steel, semiconductor, chemical, concrete, and other manufacturing facilities, each with very different operations, product markets, emissions profiles, abatement opportunities, capital-planning cycles, permitting requirements, and competitive pressures. A uniform compliance structure risks treating fundamentally different facilities as though they have the same reduction pathways. A more durable rule should recognize these differences and provide a

transparent, facility-sensitive framework that distinguishes between reducible emissions and non-abatable emissions tied to required pollution-control or safety equipment, process emissions with limited near-term alternatives, and emissions that may be reduced only after major capital investment, permitting, or supply-chain availability.

We recommend the following:

1. Separate EITE and DNG emissions from the total cap or otherwise establish a clear mechanism to prevent unavoidable EITE and DNG emissions from shifting compliance burdens across sectors. If certain emissions cannot be abated within the compliance period, other sectors should not be required to make up the difference under the overall cap.
2. Conduct a facility-specific analysis to determine which portions of EITE and DNG emissions are not currently abatable and which reductions are technically and economically feasible. This analysis should distinguish between process emissions and combustion emissions, account for federally mandated pollution-control equipment and other required operations and identify realistic timeframes for reductions based on capital planning, permitting, interconnection, equipment availability, workforce constraints, and supply-chain timelines.
3. Include an adjustment mechanism that allows benchmarks and reduction schedules to be revised when a facility experiences material changes in production, feedstock, technology availability, regulatory requirements, energy infrastructure, or market conditions. The mechanism should be clear, timely, and administratively workable for both DEQ and regulated entities.
4. Evaluate and disclose customer cost impacts before finalizing reduction schedules, including impacts to small businesses, industrial customers, public institutions and residential customers who may have limited near-term alternatives and bear the compliance costs through higher energy prices.

With this analysis, the RAC will be better positioned to provide targeted feedback on program design, benchmarks, reduction schedules, community climate investments, and program review. A shared understanding of what can realistically be achieved from a technical and economic standpoint would also reduce complexity and administrative burden while supporting program goals.

Absent that analysis, NWGA offers the following comments based on the discussion at the July RAC meeting and the RAC 2 Policy Memo.

Benchmarking: We support expanding the benchmark period from the most recent three years (2023–2025) to ten years (2015–2025). A longer period is more likely to reflect normal business cycles, outages, changes in product mix, market disruptions, and facility-specific operating conditions. It would also reduce the risk

that an anomalous short period becomes the basis for long-term compliance obligations and could lessen DEQ's administrative burden by reducing adjustment requests.

Reduction Schedules: We support delaying reductions until the 2030–2031 compliance period. Because these rules will not be finalized until 2027, entities will need time for compliance planning, investment decisions, and necessary lead times. We also support the recommendations for a reduction schedule of 0.75% every two years, or 1.5% every four years. Aligning Oregon's trajectory more closely with Washington's Climate Commitment Act would reduce regional regulatory disparities, lessen competitive disadvantages for Oregon facilities, and reduce incentives for emissions and investment leakage.

Adjustments to Reduction Schedules: We support a clear process to adjust reduction schedules and benchmarks when necessary. Entities should be able to submit information showing that reductions are not technically or economically feasible, including evidence related to market demand, conflicting environmental or energy policies, equipment failures, natural disasters, major operational changes, or similar impacts.

Privacy of Production Data: We support an approach to data privacy that is consistent with Washington's Climate Commitment Act.

"Information contained in assessments submitted to the department by an emissions-intensive, trade-exposed facility under this subsection (9) are records containing financial, proprietary, and other market-sensitive information in accordance with RCW 70A.65.100(9)(c), and such assessments are fully exempt from public disclosure in their entirety. The department may make public summarized information contained in assessments submitted under this subsection (9) in an aggregated manner that does not allow for the identification of any facility-specific financial, proprietary, or market-sensitive information."

Program Review and Evaluation: We support program review and evaluation, but the proposed timeframe may not be responsive enough to address leakage risk, compliance risk, or unintended economic impacts. A facility may suspend operations, relocate production, or defer investment before a formal leakage determination occurs. The rules should create a clear pathway for EITE and DNG entities to notify DEQ when compliance obligations may affect production, investment, or continued operations in Oregon, and to provide the information needed to evaluate leakage risk, customer cost impacts, and potential lost economic opportunities. Program review should serve as an early intervention tool, not only a retrospective assessment after Oregon has lost an employer, production line, or investment opportunity.

DEQ should evaluate this rulemaking as an integrated compliance framework, not as isolated components. Regulated entities will assess whether the combined requirements for benchmarks, reduction schedules, adjustment processes, reporting, and compliance instruments allow lawful, reliable, and competitive long-term operations. Those decisions will inform capital planning, production, investment in Oregon facilities, and long-term viability. For that reason, the program should begin with realistic assumptions about what reductions are technically and economically achievable, a clear understanding of cumulative compliance obligations, and safeguards against leakage or discouraged investment.

A compliance framework that increases emissions reductions on paper while shifting manufacturing, investment, or energy-intensive production to jurisdictions with less stringent standards would not achieve the Climate Protection Program's environmental objectives. The rulemaking should prioritize actual net emissions reductions while minimizing economic and emissions leakage.

NWGA appreciates DEQ's continued engagement and encourages the Department to refine the framework to protect customers, prevent leakage, and reflect facility-specific feasibility. We look forward to continued dialogue and to helping develop a practical pathway for emissions reductions that supports reliability, affordability, and economic growth in Oregon.

Sincerely,

A handwritten signature in black ink, reading "Kelly K. Fukai". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Kelly Fukai
CEO, Northwest Gas Association

August 14, 2026

Comment: Climate Protection Program EITE Rulemaking Advisory Committee Meeting 2

Climate Protection Program Rulemaking Team:

NW Natural appreciates the opportunity to continue participating in the Oregon Department of Environmental Quality's Climate Protection Program rulemaking for emissions-intensive, trade-exposed sectors and direct natural gas sources. NW Natural continues to have significant concerns about the legal and policy foundation for the CPP, including the scope of DEQ's statutory authority. We preserve those concerns while participating constructively in this process.

As DEQ develops compliance pathways for EITE facilities, the final rule should recognize legitimate competitiveness, leakage, technology-readiness, and operational constraints without shifting compliance obligations or costs to fuel suppliers, utilities, residential customers, small businesses, schools, hospitals, and other non-EITE energy users. NW Natural recommends that DEQ: (1) establish facility-specific benchmarks and reduction schedules grounded in demonstrated technical and economic feasibility; (2) clearly account for how production growth, new facilities, and EITE flexibility mechanisms interact with the program's declining cap; (3) evaluate and disclose resulting affordability impacts on non-EITE customers; and (4) consider a separate EITE compliance framework, similar to Colorado's manufacturing program, to reduce leakage risk and avoid cross-subsidization among covered sectors.

The recent RAC discussion reinforced the importance of resolving how EITE benchmarks, reduction schedules, compliance flexibility, production growth, and new facilities will interact with the CPP's single declining cap. EITE facilities face legitimate competitiveness, leakage, technology-readiness, and operational constraints. Those considerations warrant tailored treatment. At the same time, relief provided to EITEs should not inadvertently increase compliance obligations or costs for fuel suppliers, utilities, residential customers, small businesses, hospitals, schools, and other non-EITE energy users.

Benchmark Design and Reduction Schedules

DEQ should establish facility-specific benchmarks grounded in verifiable data and representative operating conditions. Benchmark methodologies should account for those differences, recognize prior

efficiency investments, and avoid creating incentives to reduce production rather than emissions intensity.

Reduction schedules should similarly reflect demonstrated technological feasibility and realistic implementation timelines. Significant industrial projects may require years for planning, engineering, permitting, procurement, construction, utility interconnection, and commissioning. DEQ should avoid rigid schedules that assume broad deployment of technologies that are not commercially available or economically feasible within the applicable compliance period. Feasibility must be evaluated in the context of the Pacific Northwest rather than based solely on a technology's existence in a laboratory, pilot project, vendor catalogue, or another region. Oregon should remain attentive to competitive conditions in neighboring jurisdictions and the potential for emissions and economic leakage.

The final rule should include a defined feasibility screen before assigning or continuing a reduction requirement. At a minimum, that screen should evaluate whether the technology is commercially demonstrated for the facility's process and scale; whether qualified vendors, engineering support, replacement equipment, fuels, and maintenance services are available within a reasonable timeframe; whether sufficient electric capacity, transmission, distribution, interconnection, renewable fuels, hydrogen, carbon transport or storage, or other enabling infrastructure is regionally available; whether the project can be permitted and placed in service during the compliance period; whether implementation would impair safety, reliability, product quality, or compliance with other environmental requirements; and whether the total cost is reasonable in relation to the emissions reduction achieved and the facility's competitive position.

The final rule should include a structured process for benchmark review and reduction-schedule adjustments when significant operational changes occur or when a feasibility screen demonstrates further reductions are not technically or economically achievable. The screen should be updated at regular intervals as regional grid capacity, fuel supply, vendor capability, permitting timelines, and commercial technology availability will change over time. It should rely on facility evidence and qualified independent technical review rather than presume that a measure is feasible simply because it has been demonstrated elsewhere. Such flexibility can support continued investment and innovation, but DEQ should clearly identify how any adjustment affects compliance instrument availability and obligations elsewhere in the program.

Production Growth, New Facilities, and the Overall Cap

An intensity-based framework should account for production growth, new product lines, and new facilities if Oregon intends to retain and grow existing employers while attracting new industrial investment. A facility may increase production while improving emissions intensity, thereby supporting economic growth and producing goods more efficiently. The rule should provide a predictable process for establishing or updating benchmarks when significant changes occur.

DEQ must resolve how production growth fits within an absolute declining cap. If EITE emissions increase because production expands, even while emissions intensity improves, DEQ should adjust the program cap so other covered sectors are not forced to absorb the difference. The issue arises when new EITE facilities enter the program. Without adjustments to the program cap, production-based accommodations could create substantial cost and compliance uncertainty for non-EITE customers.

Compliance Cost Comparisons and Program Design

The RAC discussion reflected continuing uncertainty regarding how the cost of carbon should be compared across programs. Washington's Climate Commitment Act and the California-Quebec cap-and-invest program differ materially from Oregon's CPP, but they share an important feature: covered entities who emit over their allocation of no-cost allowances (WA) or Compliance Instruments (OR) need to procure additional compliance tools to meet the remainder of their compliance obligation. Washington's rules include a dedicated framework for distributing no-cost allowances to EITE facilities (WAC 176-446-220). In Washington, EITEs are able to purchase allowances at auction to cover any obligation that exceeds their allocation of no-cost allowances. Similarly, DEQ is proposing to allocate no-cost Compliance Instruments to EITEs. Compliance for additional emissions above the allocations of no-cost Compliance Instruments can be covered by Community Climate Investments as was discussed during the RAC meeting. In this context, Washington's market allowance prices and Oregon's established CCI price is an important comparison when assessing the cost impacts and leakage risk of this program on EITEs.

Colorado's Sector-Specific Manufacturing Framework

Colorado provides a useful example of separating industrial and manufacturing compliance from obligations applicable to other sectors. Rather than placing manufacturing facilities inside a single economy-wide allowance cap, Colorado regulates large manufacturers through its Greenhouse Gas Emissions and Energy Management for Manufacturing rules under Regulation 27. GEMM 1 applies to designated energy-intensive, trade-exposed facilities, while GEMM 2 establishes a collective industrial-

sector requirement for covered manufacturers that emit at least 25,000 metric tons of greenhouse gases annually. GEMM 2 requires the covered manufacturing group to reduce emissions 20 percent by 2030 relative to 2015 levels.

This structure does not exempt industrial sources from climate obligations. Instead, it establishes an industrial compliance framework with sector-specific reduction plans, facility requirements, onsite reduction provisions, and compliance tools designed around manufacturing operations. Colorado also maintains an industrial branch of its greenhouse gas crediting and tracking system that is distinct from the branch serving gas distribution utilities. The distinction is important: compliance flexibility and credit trading remain available, but industrial performance is measured and managed within an industrial program rather than being folded into a common cap where accommodations for manufacturing could automatically tighten obligations for households and other energy consumers.

Colorado's approach demonstrates that a state can directly regulate industrial greenhouse gas emissions, preserve enforceable reduction requirements, and account for environmental justice considerations without using residential and commercial energy customers as the balancing mechanism for industrial compliance. Although Oregon's statutory and regulatory framework differs, DEQ should evaluate whether the CPP can adopt the same core design principle: establish a distinct industrial or EITE obligation with its own trajectory, accounting rules, and compliance resources, while maintaining separate obligations for fuel suppliers and other non-EITE sectors.

Colorado's framework also reflects the importance of evaluating actual reduction opportunities at the facility level. Under GEMM 1, covered EITE facilities use independent audits to assess greenhouse gas best available emissions control technologies and energy best management practices. Oregon should incorporate a comparable discipline while expressly requiring regional feasibility findings. A technology should not be treated as available to an Oregon facility unless the necessary equipment, skilled workforce, fuel or electric supply, infrastructure, permitting pathway, and operational support can reasonably be secured for that facility and placed in service within the relevant compliance period.

Washington provides an additional reference point. Its EITE adjustment process permits facilities to seek an upward adjustment when additional reductions in carbon intensity or mass emissions are not technically or economically feasible and may use a best available technology analysis. DEQ should adopt an equally clear evidentiary pathway, including defined submission requirements, timelines, confidentiality protections for sensitive facility information, and an opportunity to revisit conclusions as technology and regional infrastructure evolve.

NW Natural and other RAC members with direct or indirect compliance responsibilities bring practical experience with emissions accounting, instrument allocation, utility operations, customer impacts, and implementation under neighboring state programs. Other stakeholders bring important perspectives on climate science, public health, environmental justice, and statewide policy objectives. DEQ should consider all of these perspectives while also recognizing that regulated entities and their customers will bear direct operational and financial consequences from the final rule. A durable program will require clear design choices grounded in both policy objectives and implementation realities.

Sector Cross-Subsidization and Customer Affordability

A central policy challenge in this rulemaking is the risk of sector cross-subsidization if EITE obligations are adjusted within a single shared cap without a mechanism that fully separates EITE compliance from non-EITE compliance. If relief is provided through slower reduction schedules, benchmark adjustments, production-based allocations, feasibility-based pauses, expanded CCI use, borrowing, reserves, or other mechanisms, DEQ should identify whether those decisions increase the effective compliance burden on fuel suppliers and other covered entities.

This is not simply an accounting issue. Under a declining absolute cap, flexibility granted to one group must be reconciled elsewhere unless the obligation is separated or the cap is otherwise adjusted. If EITE emissions remain higher because reductions are infeasible, production increases, benchmarks are revised, or compliance schedules are paused, non-EITE sectors may be required to absorb a steeper effective decline. The practical result could be a transfer of costs from industrial businesses to households and smaller energy users.

NW Natural supports meaningful climate progress and a healthy Oregon economy, but those objectives should not depend on residential customers subsidizing business compliance obligations. Households, small businesses, and public-serving institutions already face cumulative affordability pressures and generally have fewer practical options to avoid or manage CPP-related costs than large industrial entities with tailored compliance pathways. A program that protects EITEs by increasing compliance pressure on non-EITEs would undermine confidence in the CPP and could weaken the equity rationale for the program.

Recommended Program Structure and Next Steps

The clearest way to avoid cross-subsidization is to fully separate EITE obligations from non-EITE obligations. A separated structure would allow DEQ to tailor EITE requirements to leakage risk and technical feasibility while preserving a distinct compliance pathway for residential, commercial,

institutional, transportation, and other non-EITE energy use. It would reduce allocation volatility, improve planning certainty, and allow DEQ to evaluate each sector's performance without requiring non-EITE customers to compensate for industrial compliance relief.

Colorado's Regulation 27 provides a relevant structural model. Its GEMM rules establish direct requirements for covered manufacturing facilities, including EITE sources, and its industrial crediting and tracking branch supports compliance within that sector-specific framework. DEQ should examine whether Oregon can similarly define a discrete EITE emissions budget or compliance trajectory, establish EITE-specific instruments or accounts, and prevent unused or additional industrial obligations from altering the compliance pathway for non-EITE customers.

If DEQ elects to retain EITEs and non-EITEs under a shared cap, the final rule should, at a minimum:

- Quantify how EITE benchmark choices, reduction schedules, and flexibility mechanisms affect non-EITE compliance obligations
- Explain how production growth, new facilities, and benchmark adjustments interact with the overall cap
- Model affordability impacts for residential, commercial, institutional, and large non-EITE customers of current program
- Provide transparent accounting for compliance instrument distribution and any resulting cost shifts
- Require a transparent technical and economic feasibility screen that evaluates commercial maturity, facility applicability, regional infrastructure and fuel availability, vendor and workforce capacity, permitting and interconnection timelines, safety and reliability, and cost per ton reduced
- Provide periodic reassessment and an adjustment pathway when regional technology availability, infrastructure, market conditions, or legal requirements materially change
- Establish periodic review and reporting requirements to confirm that EITE relief is not being backfilled by non-EITE customers
 - Evaluate Colorado's GEMM framework and industrial crediting branch as a model for establishing separate EITE reduction requirements, accounting, and compliance resources

NW Natural appreciates the opportunity to engage in this process and looks forward to continued participation as DEQ develops a durable and workable framework for EITE and DNG sources. We

welcome continued dialogue on benchmark design, compliance instrument distribution, affordability impacts, implementation timing, and the safeguards needed to prevent cost shifts across sectors.

With Regards,

Mary Moerlins

Director, Environmental Policy and Corporate Responsibility
NW Natural



August 10, 2026

Submitted via e-mail to CPP.EITE@deq.oregon.gov

Evan Manvel
Oregon DEQ
700 NW Multnomah Street, Suite 600
Portland, OR 97232

Dear Evan:

As a member of the RAC, the Northwest Pulp & Paper Association (NWPPA) thanks DEQ for the ongoing opportunity to provide input and feedback on the Climate Protection Program EITE Rulemaking. As noted during the last meeting on July 29th, we appreciate the ability to see DEQ's latest thinking in the RAC 2 Policy Memo.

As you know, NWPPA members are highly energy-intensive and trade-exposed, operating in a global market with competitive pressures both domestically (state-to-state) and globally. Pulp and paper mills are correctly classified as EITEs by NAICS code in Table 7 of the CPP. We appreciate and request that DEQ continue to classify EITEs, including Oregon's pulp and paper mills, by NAICS code.

We offer the following responses to the RAC 2 Policy Memo:

1. Benchmarks

We agree with and support DEQ's leanings toward creating source-specific (facility-level) benchmarks with the option of source-specific, product-differentiated benchmarks. Product-level benchmarks should remain optional and done only at the request of an EITE facility.

In addition, DEQ should include a process for a facility to apply for an adjustment to its benchmark baseline. This adjustment concept is also referenced later in the Policy Memo under "Adjustments to reduction schedules" and should be replicated in the benchmark policy. In its current CCA "linkage rulemaking", the Washington Dept. of Ecology is adopting a procedure for EITE facilities to apply for an adjustment to a previously established baseline.¹

¹ See: https://ecology.wa.gov/getattachment/2aa5e116-5cb9-415f-928c-99a3732e363d/DRAFT-FOR-COMMENT_Chapter-173-446-WAC_July-2025.pdf (WAC 173-446-220 (1) and (2)).

Questions:

- a. *Is there something non-representative about the most recent few years of 2023-2025 when it comes to assessing the current state of production at an individual source or across multiple sources?*

NWPPA believes that, given the diversity and variety of pulp and paper products manufactured in Oregon, 2023-2025 is too short a timeframe to create benchmarks. This three-year period does not adequately represent the varying emissions intensity, market cycles, or abnormal production periods of all Oregon mills. Rather, to capture a better snapshot of the varying production cycles, 2015-2025 would be a more realistic timeframe, with a mill being able to choose a two-year average during period. Even the CPP program's underlying baseline recognizes the earlier year range of 2017-2019. Given the small number of Oregon EITEs (37) it does not seem that a 2015-2025 timeframe would be overly burdensome for DEQ staff.

- b. *Should DEQ incorporate more recent emissions data than 2025 in the benchmarks? What might the advantages or disadvantages be of using the most recent emissions data year, like 2026, in the benchmark?*

DEQ should allow this at the request of an EITE facility.

2. Reduction Schedules

As stated during the last RAC meeting, to maintain competitiveness between Oregon and Washington mills, EITE policy parity must be reached (as far as possible) between Washington's Climate Commitment Act (CCA) and Oregon's Climate Protection Program (CPP) rule. Accordingly, NWPPA requests a CPP compliance instrument (CI) reduction schedule of .75% every two years – or 1.5% every four years. This approach mirrors Washington's 3% allowance allocation reduction schedule every four years. This is necessary because Washington CCA allowances are currently trading at roughly one-half (1/2) the cost (\$62/allowance) as compared to Oregon's CCIs (current at \$136/instrument). And in Oregon, program compliance using CCIs begins at 15%, then increases to a max of 20%. Washington has no similar limitation on allowances purchased at auction, where 100% of allowances may be used for CCA compliance. This is critical for Oregon's mills to stay even remotely competitive with Washington mills.

NWPPA supports DEQ's thinking on an EITE program phase-in, with no-cost CIs distributed between 2030-31. Although the CPP has been in place since 2023, EITEs will not know – or not be able to sufficiently plan for – program implementation costs until adoption of this rule at the end of 2027. By comparison, Washington's CCA similarly provides a distribution of 100% no-cost allowances for EITEs during the first four-year compliance period of 2023-2027.

Questions:

- a. *Should any reductions start before the 2030-31 compliance period? Why or why not?*

As noted above, NWPPA believes compliance schedule reductions should begin after 2031.

- b. *What should the expected reduction percentage be every 2 years?*

As noted above, NWPPA believes the reduction percentage should be .75% every two years.

3. Adjustments to reduction schedules

As outlined in our previous written comments, NWPPA believes that DEQ should develop processes for upward adjustments to CI allocation schedule as well as benchmark/baseline adjustments referenced in Sec. 1 (Benchmarks) above. These processes are essential to avoid GHG leakage and exist in other similar programs. Changes in market conditions, significant process changes, and technical and economic feasibility of decarbonization are a few examples of scenarios that facilities should be allowed to use to justify an adjustment. This is not hypothetical or speculative. NWPPA has member mills in Washington that have recently seen significant changes in their manufacturing processes and have already needed to petition the Dept. of Ecology for both baseline and compliance schedule adjustments under the CCA.

NWPPA believes that EITEs should be able to request benchmark adjustments for any reason that impacts the operation of the site. Additionally, to avoid penalizing existing EITEs in Oregon, DEQ should develop provisions under which a new source at an established EITE facility is allowed to operate for a compliance period with 100% no-cost compliance instrument allocation before being incorporated into the source-specific benchmark.

Questions:

- a. *What are your thoughts on a reduction schedule adjustment process? What do you see as the potential advantages or disadvantages of DEQ's approach?*

NWPPA believes criteria for the adjustment process should be clearly and transparently outlined in rule, enumerating and specifically describing the different triggers. And if triggers are clearly met, DEQ should be required to proceed with an adjustment.

- b. *If DEQ creates a reduction schedule adjustment process, what sources should be required to demonstrate to be eligible? Should any parts of the application require outside certification?*

Sources should be required to provide a technical and economic feasibility study indicating additional reductions in emissions are not technically or economically feasible. For short-term adjustments, evidence of necessary change in operations and how it impacted emissions. None of the application should require outside or third-party verification. By way of comparison, outside party verification is not required under Washington's CCA or under WAC 173-446-220.

- c. *If DEQ creates a reduction schedule adjustment process, what should an analysis of potential reductions include? Are there items missing from the list above, or are items unnecessarily included?*

NWPPA believes additional points/bullets should be added:

- An economic assessment, including:
 - Market demand. For the pulp and paper sector, for example, an increase in recycled fiber demand or supply could increase natural gas usage, while limiting biomass utilization, thereby increasing a facility's carbon intensity and directly affecting that source's ability comply.
 - Conflicting environmental and/or energy policies, including other policies that may create mandates that increase fossil fuel use, including but not limited to:
 - Extended producer responsibility (EPR) policy, driving demand for higher recycled fiber usage that requires more natural gas use in the manufacturing process.
 - Cleaner Air Oregon where solutions may require installation of additional emissions control technologies that rely on natural gas firing
 - Regional haze analyses that have favored natural gas firing over biomass, though biomass is certainly more favorable under the CPP.
 - Short-term impacts to EITE benchmarks. An example could include a short-term compliance obligation pause or reduction to account for equipment failures, unforeseeable events such as floods, fires, or earthquakes, or major operational changes.
- d. *Should any potential adjustments apply only to the forthcoming compliance period, or should DEQ have the discretion to include a longer adjustment, perhaps up to four years? What might the advantages or disadvantages of providing DEQ with this level of flexibility?*

NWPPA believes DEQ should have as much flexibility as possible to deal with needed adjustments to both benchmarks/baselines and reduction schedules. In addition to flexibility for DEQ to make and maintain adjustments into out years, it's equally important for DEQ to be able to work with EITEs to make needed adjustments to current compliance periods. In Washington, NWPPA member mills experiencing recent significant manufacturing changes have needed to work with Ecology to make modifications to reduction schedules during current CCA compliance periods.

4. Significant production downturns

NWPPA appreciates and supports DEQ's recognition that, although the goal of this rulemaking is to protect and allow EITEs to increase production, while maintaining or decreasing carbon intensity, production downturns are also possible and will likely result in a significant increase in an EITE facility's carbon intensity.

Questions:

- a. Should DEQ consider a different method for distributing compliance instruments to an EITE if there has been a significant production downturn?*

Yes, alternatives in such times would be needed. Perhaps a minimum distribution of compliance instruments regardless of emissions intensity.

- b. What would be the process for determining whether a reduction in production was significant enough to use an alternative distribution approach?*

The source-specific trigger for this process should be a projected compliance shortfall identified after submission of the annual GHG report (March 31) but before the CPP compliance demonstration deadline (December 9). Because this is a compliance issue, it should be resolved with the administrator prior to the compliance demonstration and should be initiated by the facility.

- c. If yes, should it be one of the approaches discussed above or another? What are the benefits and disadvantages of the different approaches?*

NWPPA prefers Option 5 (distributing CIs on a mass basis during periods of significant production downturns).

NWPPA disfavors any approach that relies on borrowing from future compliance periods which carries significant disadvantages for both

sources and the program. It also creates a substantial administrative burden for DEQ to track and manage.

5. **Privacy of production data**

NWPPA greatly appreciates the discussion and need for privacy of production data. Confidential Business Information (CBI), including production data used to calculate carbon intensity, is highly sensitive information and could create market and production shifts out of Oregon if obtained by a competitor in or outside the state.

Of all the topics discussed during RAC #2, it was this topic that yielded the greatest concern for NWPPA members, as it does not appear that Oregon has sufficient CBI legal protections for EITE companies.

Questions:

- a. *Are there approaches DEQ should consider for those interested in keeping production numbers confidential?*

Washington's CCA, including a recent 2026 amendment via [SB 6246](#) (Sec. 1 (9)(f)), provides a good framework for DEQ to consider:

"Information contained in assessments submitted to the department by an emissions-intensive, trade-exposed facility under this subsection (9) are records containing financial, proprietary, and other market-sensitive information in accordance with RCW 40 70A.65.100(9)(c), and such assessments are fully exempt from public disclosure in their entirety. The department may make public summarized information contained in assessments submitted under this subsection (9) in an aggregated manner that does not allow for the identification of any facility-specific financial, proprietary, or market-sensitive information."

- b. *Is the option of a mass-based benchmark and reduction schedule a worthwhile compromise that could provide assurance of keeping production data confidential while losing the function of expanding allocation to sources whose production levels have increased?*

In short, no. Oregon's CPP program must have both: a carbon intensity benchmark and reduction schedule and data and information privacy. Washington's CCA program has both and so must Oregon.

- c. *DEQ is considering presenting the proposed metric of production or process for each EITE source, without a specific benchmark number, at the next advisory committee meeting. What might be advantages or disadvantages of doing this? Any concerns?*

NWPPA questions why this is necessary.

6. Use of CCI

NWPPA believes that, based on the cost-prohibitive nature of CCIs and their limited and uncertain availability and application, CCIs will never be helpful in achieving compliance under the CPP.

Rather, DEQ could establish an optional facility-specific “carbon reduction fund” as an alternative to the purchase of CCIs or offsets, where facilities pay into a fund that builds over time to assist with implementing future carbon reductions at their facility as mechanisms become more technologically and economically feasible. Or, as noted below, EITEs could be given their own separate budget of compliance instruments.

7. Program review and evaluation

Generally, NWPPA supports periodic check-ins and reviews to make sure that stated CPP program goals and objectives are being achieved. This could include periodic leakage analyses -- for instance, if another pulp and paper mill in Oregon closes. In the event program goals and objectives are not being met, DEQ needs many of the tools stated above, to modify CPP rules.

As mentioned by many RAC members, the inherent, artificial tension between EITEs and non-EITEs must be addressed. EITEs should be given their own separate budget of compliance instruments and not placed in competition with non-EITEs for that same budget of CIs.

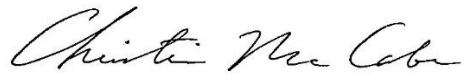
In this EITE rulemaking, DEQ must recognize as a matter of policy that Oregon’s EITEs are incredibly difficult to decarbonize due to their use of natural gas and that most EITEs have already addressed the GHG reduction “low hanging fruit” projects via energy efficiency upgrades.

Finally, DEQ must also recognize and reflect in this rule that given the long list of the barriers to decarbonization facing EITEs, most will not be able to comply with the CPP’s overall reduction targets. Some of the comments made during the RAC process so far imply that the EITEs can get there and that it’s only a matter of cost. This is completely incorrect and DEQ must adequately reflect in this rulemaking.

In summary, we share the goal of reducing greenhouse gas emissions in Oregon and continuing to improve energy efficiency where feasible. At a minimum, RAC members should all agree that the program should not create a net increase of greenhouse gas emissions by shifting production to jurisdictions with higher carbon intensity.

Thank you for your time and consideration of these responses.

Sincerely,

A handwritten signature in black ink that reads "Chris McCabe". The signature is written in a cursive, flowing style.

Chris McCabe
Executive Director, NWPPA

**OFIC****OREGON FOREST INDUSTRIES COUNCIL**PO Box 12826 Salem, Oregon 97309 | (503) 371-2942 | www.ofic.com**August 14, 2026**

Oregon DEQ
Attn: Evan Manvel

Via Email: cpp.eite@DEQ.oregon.gov

RE: CPP EITE Rulemaking RAC2 Comments

Dear Mr. Manvel,

The following comments are being submitted on behalf of the Oregon Forest Industries Council (OFIC) with regard to the second meeting of the Rulemaking Advisory Committee (RAC) for the Climate Protection Program EITE rulemaking, held on July 29, 2026, as well as to the content of the Climate Protection Program EITE Rulemaking RAC 2 Policy Memo (the Policy Memo) that was published in advance of the meeting and that framed the discussion agenda. As with OFIC's comments following the first meeting of the RAC, in addition to the items that DEQ is expressly soliciting feedback on in the Policy Memo, we would also like to address a couple of overarching conceptual issues of concern.

1. Benchmarks

We are pleased that DEQ is leaning towards source-specific benchmarks rather than industry-specific benchmarks, and we would further encourage DEQ to follow through in providing a mechanism for individual sources to request product-differentiated benchmarks to account for variations in the mix of products (where each has a unique energy-intensity signature) produced at a single facility on a year-to-year basis. We would like to note that, in order for source-specific, product-differentiated benchmarks to actually provide the operational flexibility promised, DEQ will also need to include a process by which the number of compliance instruments credited to a source are adjusted at the end of a compliance period to account for the mix of products actually produced during that period. We will provide more comment on the formula and mechanism that is currently being proposed for the distribution of no-cost compliance instruments a bit later in this letter.

However, we do have profound concerns around DEQ's proposal to use emissions data from 2023-2025 to set these benchmarks. First, utilizing such a narrow window increases the likelihood that the assessment period in question does not actually reflect the longer-term average of a facility's production. As numerous RAC members have noted, efficiency can be dramatically impacted by business cycles given the fact that there is a certain baseline of emissions associated with just keeping equipment up and running. This means that a facility that had banner years in 2023-25 (and a lower per-unit emissions profile as a result) may not be able to reliably count on the same level of production going forward.

Therefore, some sources will end up with a benchmark intensity factor that does not accurately reflect their average production and start from a more restrictive baseline than other companies that had higher carbon intensity years from 2023-2025.

Secondly, by using the most recent years of emissions data, facilities that have already invested heavily in emissions-reduction technology will not be permitted to benefit from the work already done. Even though DEQ is contemplating creating a process by which sources can request a variance from the emissions reduction schedule should they be unable to feasibly reduce emissions intensity in accordance with the reduction schedule, those sources that are already at or nearing a “best available emissions reduction” standard will be required to request a variance almost from the start. Rather than setting the benchmark at a level that will render compliance difficult from the outset, it seems to us far more equitable – not to mention less onerous for DEQ – to allow a longer lookback window for determining a facility’s source-specific benchmark.

For the foregoing reasons, we would request that DEQ allow sources to use average emissions from any three-year period (not necessarily sequential) from 2015-2025 for determining an emissions baseline for calculating their source-specific benchmark.

2. Reduction Schedules

We agree with DEQ’s inclination toward targeting 2030-31 as the first compliance period that would require an emissions-intensity reduction in accordance with the reduction schedule. Requiring reductions earlier than this would not give covered sources adequate time for planning and implementation of emissions-reduction technologies.

We are, however, concerned with DEQ’s planned reduction schedule. Even at the lower end of the proposed range of 1-2.5% per year, many sources will struggle to match the schedule given (a) the relatively short 2-year compliance period window and (b) the lack of alternative compliance pathways under the CPP and the relatively high cost of those that do exist (i.e. Community Climate Investment credits (CCIs)). We would encourage DEQ to decrease the proposed reductions to reflect these constraints.

3. Adjustments to Reduction Schedules

Crafting a workable process by which sources can request adjustments to or abeyance of reduction schedules is of paramount importance given the technological limitations that are likely to make reductions infeasible beyond a certain point. As various RAC members commented during the most recent meeting, we would encourage DEQ to create a process that would allow for such adjustments to extend beyond a single compliance period.

Requiring re-submission of an adjustment request every two years will likely result in an unending cycle of paperwork, adding an administrative burden both to the source submitting the request and to the DEQ staff responsible for processing the same. And given

that many, if not most, reduction adjustment requests will result from a source running up against technological limitations, it is unlikely that such limitation would resolve within a two year period (considering the time that it takes to complete the process of innovation, testing, planning, and final implementation) in the first place. We would therefore propose that any adjustment granted through the finalized process last, at minimum, for two full compliance periods.

One other item from the policy memo that is worth noting in this topic is the language that DEQ used to frame the economic assessment and community health impacts that will form part of the adjustment evaluation. We are particularly concerned with language indicating that DEQ plans to incorporate consideration of “the value of no-cost compliance instruments” in its assessment of the economic feasibility of emissions reductions. It is possible that we are misunderstanding the intended significance of this verbiage, but we are concerned that by it DEQ means to imply that economic feasibility will be assessed, not only according to what a company can *actually* afford given the balance of its operational costs and revenue, but also according to the artificial value of a largely non-fungible regulatory instrument.

The CPP is not analogous to market-based carbon programs in Washington and California. The universe of entities that will trade in compliance instruments is limited in scope and therefore the actual book value of any distributed “no-cost compliance instruments” is speculative, at best. Even if price discovery were robust and the value of compliance instruments readily predictable, this would still mean that DEQ could deny a request for an adjustment so long as a source had compliance instruments that it could sell. But doing so would require a source to decrease overall production – an outcome that is directly counter to one of the chief goals of this program, which is to give EITEs in Oregon the flexibility to maintain production and even grow. We would therefore recommend *not* including compliance instrument value in the calculation of economic feasibility.

We are equally concerned with inclusion of “environmental and health impacts” as one of the evaluation criteria. We understand that DEQ has included as a goal and benefit of the CPP the promotion of attendant environmental/health impacts from an overall decrease in emissions (not merely GHG emissions, which themselves do not cause immediately proximate deleterious health impacts). However, to include consideration of co-benefits that could be furthered if a particular technology were adopted as one of the criteria for evaluating an application for reduction schedule adjustment is to allow the tail to wag the dog and – to mix metaphors – to put a finger on the scale *against* a finding of economic and technical infeasibility.

There are myriad other state programs such as Cleaner Air Oregon and the Title V and ACDP permitting programs that safeguard human and environmental health, and a source would be required to comply with these programs regardless of the rate at which they will be required to reduce their carbon intensity under this rule. There is therefore practically no chance that DEQ’s granting of an emissions reduction abeyance would imperil community

health. It is our opinion that a technical and economic feasibility assessment should be limited to just that: what is *technically* feasible given the current state of technological innovation and what is *economically* feasible given the balance of operating costs and revenues for the source in question.

4. Production Downturns

In general, we do not support approaches to addressing production downturns that would take compliance instruments out of circulation or work to the detriment of other covered sources. We do think that there is merit to using the same reduction schedule adjustment process that DEQ is contemplating for the economic/technical feasibility assessment, however, given that downturns often result from unanticipated near-to-mid term market disruptions, we would encourage DEQ to create a fast-track process for sources seeking an adjustment as a result of a downturn in production.

5. Use of CCIs

Though we appreciate DEQ contemplating increasing the percent of an EITE's compliance obligation that could be met through the purchase of CCIs, we would note, as others have before, that questions about the availability of CCIs as well as their relatively high cost compared to alternative compliance instruments in neighboring carbon programs raises serious concerns about their usefulness. We would encourage DEQ to revisit the cost schedule outlined in the baseline CCP rule and reduce the cost of CCIs to more closely mirror the settlement value of credits in neighboring jurisdictions.

6. Review Schedule and Final Comments

With regard to DEQ's planned review of the program, we would encourage the agency to include in the bi-annual report a trend of the overall economic activity of covered EITE sources, including any known reductions in production or economic leakage. Obviously it is of paramount importance that DEQ maintain the privacy of individual source data and anonymize any information regarding economic activity, accordingly, but we do believe that it is important for the EQC to understand how the program is impacting economic activity within the state in order to assess whether it is facilitating the goal of providing sources the operational flexibility needed to continue to grow in this state. Relatedly, if economic activity is being lost to other jurisdictions that do not have carbon programs, this is important for the EQC to understand in order to assess whether the program is meeting the central goal of decreasing *global* GHG emissions.

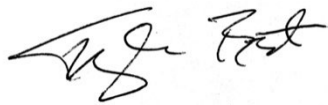
Finally, though this was not expressly raised as a matter for comment in the Policy Memo, we would like to flag a concern with the formula that DEQ has articulated for the distribution of compliance instruments to covered EITE sources. As currently contemplated, DEQ is proposing distributing instruments as follows: Benchmark Intensity Score x Reduction Target x Units Produced in Prior Compliance Period.

Our concern with this formula is that it automatically places a limit on the ability of covered sources to grow their operation (i.e. produce more units compliance period over compliance period), since instrument distribution is based on production numbers from the *prior* compliance period. Again, this acts against one of the primary aims of this program, which is to provide EITEs the ability to *grow* their operations by subjecting them to an *emissions intensity-based* program as opposed to a *mass-based* program.

We suspect that part of the reason for this formulation is owing to DEQ's plan to include EITEs and fuel suppliers under the same *mass-based* cap. We would be remiss if we did not note, again, the incongruity in imposing a mass-based cap on an emission intensity-based program. Not only does this limit EITE growth at the outset, but it also pits the economic growth of one part of Oregon's economy against other parts of its economy. We implore DEQ to consider how better to distribute compliance instruments to actually match production numbers in a given compliance period and to decouple the emissions intensity-based element of the CPP from the mass-based element.

Thank you for your attention to these comments. We look forward to reviewing the draft rule once it is ready for public distribution.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tyler Ernst', is positioned above the typed name.

Tyler Ernst
General Counsel and Director of Regulatory Affairs
Oregon Forest Industries Council

August 14, 2026

Comments on Climate Protection Program (CPP) Energy Intensive Trade Exposed (EITE) Rulemaking Advisory Committee (RAC) Meeting #2

OSM appreciates the efforts of the agency and staff in evaluating program options and in providing the policy memo prior to the RAC meeting. Understanding DEQ's considerations supports quality dialogue and exploration of potential program elements.

As context for many of the specific comments below, it is important to iterate that DEQ created a separate EITE framework because trade exposure creates leakage risk. That trade exposure acknowledges the sensitivity of covered entities to market factors. Leakage would undermine the CPP's emissions objectives and would not result in real reductions in GHG's.

As a result, mechanisms that provide adaptability and flexibility are not exceptions to the program but are instead necessary elements of achieving the program's goals; and necessary elements to manage leakage risk. Benchmark flexibility, adjustment mechanisms, and downturn relief should all be evaluated through that lens.

Questions - Benchmarks

- a) *Is there something non-representative about the most recent years of 2023-2025 when it comes to assessing the current state of production at an individual source or across multiple sources?*

Oregon Steel Mills, like many EITE sources, production levels are driven by highly cyclical domestic and international market conditions. During the proposed timeframe of 2023-2025, in addition to supply chain disruptions, customer demand fluctuations, maintenance activities, and other operational constraints that do not reflect long-term production capability, the steel market experienced continued post-Covid pandemic impacts and tariff related market fluctuations and corrections.

Sufficient DEQ consideration of market factors is a critical issue throughout the program. While this comment is specifically in relation to establishing the benchmark, market considerations are discussed again in the comments on a reduction schedule adjustment. Market considerations are central to this program; Emissions Intensive Trade Exposed Entities are considered in a separate rulemaking explicitly because of the market factors that influence operational viability. This is important context for DEQ to keep top of mind, even when working through details and nuances of specific program elements. The exposure to trade and market influences is where the risk of leakage lies. If DEQ establishes a program that does not take those influences into account then leakage, whether to other companies, or to out-of-state facilities within the same company, will likely occur.

These variations in production support the establishment of a benchmark period based on operations over a longer period of time.

In establishing a benchmark based on data outside of the narrow window proposed, there are two potential policy levers, which may work in concert. One is the expansion of the benchmark period to allow for appropriate selection of representative periods (and not penalizing early



actions); a second policy tool at DEQ's disposal is to provide a source specific approval pathway for establishing a benchmark outside the proposed period.

In balancing the competing priorities of mitigating leakage risk, limiting administrative burden, achieving real reductions and not penalizing early emissions reduction efforts, OSM recommends DEQ expand the benchmark period under consideration to a span of 10 years (2015-2025). This would reduce the number of source specific assessments required by the agency without compromising the program's integrity or emissions reduction goals. Using a 10-year period for establishing a benchmark has precedence in DEQ's air quality permitting programs, including the approach taken to establish baseline GHG Plant Site Emission Limits. The longer period would also support consideration for market fluctuations which, being influenced by global factors, can occur over significant time periods.

It is important that DEQ establish a process to allow a facility to establish a benchmark outside of the rule defined period. The importance of this option increases the more narrowly DEQ defines the explicitly allowed benchmark period. In DEQ's policy memo, the agency discussed establishing a high standard for receiving such approval. In the discussion of the approval criteria, DEQ cited things that would directly impact operations at the site (such as shutdowns or major process changes). As discussed above, the agency must include external market factors on this list of considerations. The entities impacted directly by this rulemaking are explicitly and inherently trade exposed. Therefore, disregarding market factors as having a significant influence on production levels does not adequately consider the reality faced by covered entities.

There was also discussion, during the RAC meeting, of the administrative burden DEQ may be taking on if they seek to establish site specific benchmarks for a high number of facilities. The more DEQ constrains the available benchmark period the greater the number of sources will require source specific approval. The higher administrative burden associated with that process is very unlikely to result in a significant difference in emissions reductions, particularly over the timeline of the program.

Establishing an appropriate benchmark is a critical element of the program that risks exacerbating leakage risks if sufficient customization is not provided, whether through allowing a broader time period as the standard, or through providing a clear pathway to request the use of an alternative benchmark period.

b) Should DEQ incorporate more recent emissions data than 2025 in the benchmark?

OSM does not object to including 2026 production and emission data in the span of time considered in the benchmark period but also does not endorse that time frame as inherently more representative. A benchmark should represent a reasonable baseline against which performance can be measured. It is a more important consideration that the benchmark period is representative of production capabilities, rather than simply recent.

Questions - Reduction Schedules

a) What are your thoughts on an annual reduction of between 1% and 2.5% for all EITE sources?



The appropriateness of any reduction schedule depends on the technological and economic circumstances of the source. OSM remains concerned that a uniform reduction schedule assumes all facilities have comparable reduction opportunities. As discussed in prior comments and the OSM CPP application, the reheat furnace represents the largest source of emissions and requires operation at temperatures currently unsupported by commercially viable electrification or supplemental alternate fuel (such as hydrogen) technologies.

If DEQ proceeds with a uniform reduction schedule, it is critical that the adjustment process provide meaningful relief where facilities can demonstrate additional reductions are not technically or economically achievable.

b) Should reductions begin in 2030-2031?

OSM does not support the commencement of reductions during the proposed time period as it would require an unrealistic and unnecessarily condensed process. Requiring reductions in this period does not allow for the reality of implementing capital projects at an industrial facility and having sufficient operations to realize actual emissions reductions.

For example, and as OSM experienced during the installation of upgraded reheat furnace burners required by DEQ under the Regional Haze program, once a viable technology is identified, OSM would need to go through an internal process to determine the availability of capital investment dollars. Presuming funding was available and apportioned, OSM would need to issue a Request for Proposal to prospective vendors, review the responses and select a vendor. This process alone involves significant engineering assessments and can take the better part of a year from when a technology is identified. Once a vendor is selected, OSM would need to prepare an air permit modification application and receive approval from DEQ prior to commencing construction. Depending on the permit specifics, and the applicable DEQ programs triggered (such as Cleaner Air Oregon), this process can also take the better part of a year, or longer.

Outside of these approval processes there is the reality that any potential viable technology is likely to be something that must be custom fabricated to work with the existing OSM facility. That kind of custom construction process requires significant lead times for engineering and design; it would be subject to upstream supply chain availability. This process, which would be technology dependent, would also take a significant amount of time, potentially years.

Once the new technology is installed, there would need to be a period of continuous assessment and adjustment before normal operations would be achieved. This shakeout period is likely to be even longer when newer, less proven technology is used.

Even if the entirety of the above process goes smoothly, OSM would still need sufficient operating time to occur within the reduction period to realize any results. While we understand the desire to see reduction in GHG emissions, the program must account for the timeline realities of large-scale industrial modifications.

Questions - Adjustments to Reduction Schedules

a) What are your thoughts on a reduction schedule adjustment process?

OSM appreciates DEQ's discussion adjustment process elements and views this as a critical element of the program. A robust adjustment process is one of the most important elements of



the program for EITE sources facing limited reduction opportunities. DEQ's proposed adjustment framework appears broadly consistent with flexibility mechanisms adopted by the Washington Department of Ecology. In continuing to develop this approach, DEQ must establish clear and objective criteria for approval. Facilities must have certainty regarding what information is required and how technical and economic feasibility will be evaluated.

b) What should sources be required to demonstrate?

Most critically, DEQ's process should recognize that the absence of commercially available technology is itself a valid basis for relief.

DEQ must be clear and explicit about this in establishing the program. If technology to reduce GHG emissions is not commercially available, then regardless of other considerations, an adjustment is appropriate. If reductions are required in the absence of available technology the only viable remaining option for a regulated facility is to reduce production, an act that would simply transition operations to facilities located outside of Oregon.

DEQ spoke, in the RAC, about a desire for the program to spur innovation. While OSM would welcome innovations that would reduce the energy consumption of the site, DEQ must see that increased cost pressures incurred by the CPP create tension between two outcomes: innovation and leakage. Where GHG emissions result solely from combustion (such as OSM), facilities are already incentivized to reduce GHG emissions, which function as a proxy for energy costs. If there is not a technical solution available, and cost pressures increase, market pressures will lead to leakage and no real reductions in GHG emissions would be realized.

Beyond the key element of technological availability, DEQ's proposed list of considerations includes many of the appropriate categories of consideration.

However, DEQ's proposed considerations did not contain sufficient detail about economic considerations. Specifically, DEQ should consider changes to the external competitive environment as a factor for consideration when determining overall feasibility of achieving reductions. The risk of leakage is an ongoing one and the program must have the flexibility to adapt to broader factors that exacerbate this risk. Similarly, DEQ should allow for a consideration of total capital burden on a facility. Other air quality programs continue to apply to EITE's and where those programs result in costs, whether capital or opportunity, they are an appropriate consideration when balancing the risk of leakage with emissions reductions.

In that same vein, DEQ's proposed list also included a review of "environmental and health impacts if the strategy were implemented, including air contaminant impacts to nearby communities." From Cleaner Air Oregon and NAAQS demonstrations to Regional Haze, DEQ has expansive and comprehensive air quality programs that address air quality impacts. While co-benefits may be realized, they should not be an explicit criterion in consideration of a GHG reduction program schedule adjustment process.

DEQ should also allow for consideration of abnormal operating periods and changes to emissions intensity that result from changes in product offerings that have different emissions intensities than those produced during the benchmark period. This would allow for continued expansion and innovation to occur within Oregon instead of companies making those investments in facilities outside of the state. This flexibility would help mitigate intra-company leakage.



c) Should adjustments apply only to a single compliance period?

No. Many industrial processes and equipment configurations remain unchanged for extended periods. Requiring sources to reapply every compliance period would create unnecessary administrative burden for both DEQ and regulated entities. Allowing adjustments to be approved for two compliance periods should be the minimum. This both aligns with the WA Department of Ecology adjustment approval schedule and is a reasonable time frame for assessments to be relevant and fresh.

Additionally, where a reapplication is required, DEQ should allow for a streamlined assessment that reviews solely available technology and only requires other elements of the application if new technology is identified.

Questions - Significant Production Downturns

- a) Should DEQ consider a different method for distributing compliance instruments during significant production downturns?*
- b) What approach should DEQ consider?*
- c) If yes, should it be one of the approaches discussed above or another? What are the benefits and disadvantages of the different approaches?*

OSM appreciates DEQ's recognition that emissions intensity approaches can disproportionately impact facilities during periods of reduced production. It is important that DEQ not create a doom loop scenario where downturns in production result in increased costs.

For facilities with substantial fixed thermal loads, such as OSM, emissions intensity can increase during downturns despite reductions in overall emissions. In such situations, increased compliance obligations are not indicative of worsening environmental performance but rather reflect the mathematical relationship between fixed emissions sources and reduced production.

DEQ proposed many options in the policy memo but only discussed the use of a mass-based approach in relation to the privacy of production data. OSM encourages the continued exploration of a mass basis approach within the program and within the option to address needed adjustments stemming from production downturns.

Other options DEQ proposed, such as relying on market flexibility mechanisms, borrowing against future instruments, or distributing additional instruments from a reserve pool all contain critical issues. Market flexibility mechanisms are highly unlikely to function as a meaningful redistribution of compliance instruments. EITE's, acting rationally in such a market, would retain instruments as a hedge against future uncertainty. Similarly, borrowing from a future bank of instruments would shift risk to the future, but doing so would only be reasonable if a market downturn could be accurately and predictably forecast to end within the borrowing period. Predicting market movement with the required accuracy is an impossibility. Lastly, distributing instruments from a reserve would create winners and losers among EITE's with subject facilities experiencing early downturns being insulated from the pressures, while simultaneously increasing pressures on facilities who experience downturns later on in the program implementation.

Ultimately, and at a minimum, DEQ must establish a process similar to the reduction adjustment process where DEQ allows relief from compliance obligations where production downturns are identified as the cause of emissions intensity increases. Providing this kind of relief during a



production or market downturn period is the only meaningful way to alleviate leakage risks and allow for the reality of operations.

The process should establish objective criteria for determining when production reductions are significant enough to warrant relief. This approach would provide certainty to both DEQ and regulated facilities while avoiding case-by-case determinations and inconsistent outcomes.

Questions - Privacy of Production Data

- a) *Are there approaches DEQ should consider for those interested in keeping production numbers confidential?*
- b) *Is an option of a mass-based benchmark and reduction schedule a worthwhile compromise that could provide assurance of keeping production data confidential while losing the function of expanding allocation to sources whose production levels have increased?*
- c) *DEQ is considering presenting the proposed metric of production or process for each EITE source, without a specific benchmark number, at the next advisory committee meeting. What might be advantages or disadvantages of doing this? Do you have any concerns?*

OSM continues to support efforts to protect confidential business information. Production levels, product mix, and operational information are commercially sensitive and would create competitive disadvantages if disclosed. While OSM understands DEQ's concerns regarding Oregon public records requirements, the agency should continue evaluating methods to protect confidential business information to the greatest extent legally permissible.

DEQ should explore including language in the rules that supports streamlined consideration of existing CBI requirements.

Application of a mass based approach could support this, as well as provide benefits to address emissions intensity changes based on production downturns discussed above. There is strong precedence for this within DEQ's air quality permitting programs.

Questions - Community Climate Investments and Compliance Flexibility

- a) *Should DEQ increase the 20% limit on using CCI credits for EITEs? If so, to what percentage, and why?*
- b) *Should any increase be available anytime, or only under certain conditions?*

As discussed in the RAC, OSM supports the removal of limitations on the use of CCI's as compliance mechanisms. DEQ describes the purpose of community climate investments is to "Reduce anthropogenic greenhouse gas emissions in Oregon by an average of at least one MT CO₂e per CCI credit distributed by DEQ." Consistent with this purpose, OSM sees no policy driver for not allowing an EITE to meet their full compliance obligation through acquisition of CCI's.

Outside of the above approach, OSM supports continued evaluation of additional compliance flexibility mechanisms, including expanded banking provisions and borrowing provisions during



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periods of significant economic hardship or production downturns. Given the value and importance of CCI's to potential operations, OSM does not believe that market functions will result in any significant reallocation of CCI's. Put simply, those provided to EITE's that have not been used will be retained against future uncertainty.

Such mechanisms can help maintain compliance while preserving manufacturing competitiveness during periods where direct emissions reductions are unavailable or impractical.

General Comments

OSM appreciates DEQ's continued consideration of the operational realities that Oregon's EITE facilities are facing.

The policy memo demonstrates significant progress in recognizing many of the issues raised by stakeholders, particularly regarding source-specific benchmarks, production variability, and adjustment mechanisms. The effectiveness of the program will ultimately depend on many of the specifics outlined in this comment letter and throughout the RAC process.

OSM encourages DEQ to continue refining the benchmark flexibility, providing a practical and predictable pathway to obtain relief where no available technology exists, and production downturn adjustments. OSM broadly supports the goal of the program to achieve greenhouse gas reductions while preserving Oregon manufacturing, minimizing leakage, and maintaining the long-term competitiveness of Oregon's industrial sector.



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August 17, 2026

Department of Environmental Quality
Climate Protection Program
Submitted via Email: CPP.EITE@deq.oregon.gov

RAC Meeting 2 Comments – Roseburg Forest Products (RAC Member: Lillian Schemadovits-Norris)

Dear CPP Team,

Roseburg Forest Products (“Roseburg”) appreciates the opportunity to comment on the EITE Rulemaking 2026, Rule Advisory Committee (“RAC”) Meeting #2. Please see the comments below addressing several of the questions put forth during the first RAC Meeting held on July 29, 2026.

Greenhouse Gas Emission Intensity Benchmarks

Is there something non-representative about the most recent years of 2023-2025 when it comes to assessing the current state of production at an individual source or across multiple sources?

In order to develop the most representative benchmarks for each facility, Roseburg proposes giving EITE’s the option to select their most representative years of production data from a range of years, i.e. 2017-2025. When creating a benchmark, we are creating a starting point for each facility that will determine their future compliance within the program. While this benchmark is being created by looking back at the most representative years (not necessarily consecutive) from the recent past, the future of an EITE’s production and competitiveness must also be considered. Within the group of EITEs, there is such a wide range of industries represented that operate within very different markets. These markets can very sensitive to both domestic and global events. For example, the years 2020-2022 were greatly impacted by the Covid pandemic. Some markets bloomed, while others withered. The uncertainty around tariffs starting in 2025 has caused some markets to become unstable. Both the war in Ukraine starting in 2022, and the Iran war beginning in 2026 have caused major disruptions for global supply chains that have had undeniable effects on markets that continue to today. All that being said, the most recent years of 2023-2025 may not be the most representative years for many EITEs to use while creating a benchmark that will impact their future compliance in the program. Allowing a facility to select their own representative years of production from a set range of years would ensure each facility has a fair starting point to work from going forward.

Adjustments to Reduction Schedules

If DEQ creates a reduction schedule adjustment process, what should sources be required to demonstrate to be eligible? Should any parts of the application require outside certification?

Roseburg is against any requirement of outside certification or verification within this process. Adding an additional step of verification or certification in this process would only increase administrative and financial burden on DEQ and EITEs. The proposed process in the ‘RAC 2 Policy Memo’ is comprehensive and would likely already require an EITE to work with third party consultants to develop the necessary application materials. To add additional third party certification seems unnecessarily onerous to all parties involved.

Should any potential adjustments apply only to the forthcoming compliance period, or should DEQ have the discretion to include a longer adjustment, perhaps up to four years? What might the advantages or disadvantages of providing DEQ with this level of flexibility?

Roseburg proposes an adjustment to a reduction schedule once approved by DEQ, should last at least 3 compliance periods. Once all easily attainable reduction strategies and/or efficiency improvements have been implemented by a facility and further reductions are no longer technologically or financially feasible or available, those arguments are not likely to change within a two year period. It can take 5 to 10 years or longer for new technologies to be developed, tested, engineered, a capitol plan put into place, permitted, and built, and all that assuming a facility can financially support that new technology. As mentioned above, the proposed application process proposed is very comprehensive and will require a lot of research, time, and resources to put together. To have an EITE go through that process every two years, knowing that their technological and financial realities have not changed, would be administratively burdensome to DEQ and EITEs.

Significant Production Downturns

What would be the process for determining whether a reduction in production was significant enough to use an alternative distribution approach?

Roseburg proposes this process be separate from the adjustment to reduction schedule discussed above. The adjustment for reduction schedules is a long-term mechanism for EITEs, while allowing an EITE to apply for relief during years of significant production downturn is a short-term mechanism within the program. Most often, these significant production downturns will be unplanned and unpredictable (i.e. fire or other catastrophic event at a facility, global wars, etc.). These unplanned events are already going to cause financial burdens on facilities, and CPP should consider a process to offer some relief to these facilities during this unexpected downturn in order to prevent a company from simply shutting down and investing elsewhere. This process should be more expedited than the adjustment to reduction schedules, as the sooner a facility knows it has an alternative compliance pathway for that year under CPP, the sooner they can start allocating resources elsewhere to help weather the storm.

Roseburg proposes distributing enough instruments to cover that facility's CO₂e emissions for that year in which the production downturn occurred. In actuality, this shouldn't overly burden the emissions cap and overall distribution system, as the overall emissions more than likely will be slightly lower on a mass emissions basis than normal due to prolonged shutdowns or running equipment in idle modes. This will also prevent a facility from banking an unused instruments because there will be none, they will only have enough instruments to cover that year's obligation.

Use of Community Climate Investment Credits

Should DEQ increase the 20% limit on using CCI credits for EITEs? If so, to what percentage, and why?

CCI credits should always be available for compliance demonstrations for EITEs. Compared to the current price of instruments in Washington and other jurisdictions, Oregon's proposed price for CCIs are very expensive, and will deter EITEs as using them as a first-choice option for compliance. However, if an EITE has exhausted all other avenues of compliance and is left with a compliance obligation under CPP, then any amount of CCIs should be available for purchase. Also, if 1 CCI is meant to represent 1 ton of CO₂e reduction through community projects, then DEQ should not impose a limit on that funding.

Conclusion

Roseburg appreciates the opportunity to represent our company and other wood products facilities on the RAC for the EITE rulemaking. Roseburg is dedicated to working with DEQ to find a workable solution that will allow EITEs to continue to thrive in Oregon. When businesses thrive, the communities thrive. Roseburg operates in small communities across Oregon and provides living wage jobs for many members of rural communities. Roseburg has operated in Oregon since 1936, and Roseburg remains one of the largest family-owned forest products manufacturers in the country. Roseburg wants to continue to invest, operate, and grow in Oregon while continuing to be good stewards of the *lands we love*. Roseburg believes that is possible with regulation that is developed with cooperation, understanding, and the acknowledgement of what it takes for businesses to thrive in Oregon.

Thank you for your consideration of Roseburg's comments.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Lillian', with a stylized flourish at the end.

Lillian Schemadovits-Norris (RAC Member)

Manager of Permitting and Compliance
Roseburg Forest Products, Co.

HEROUX Adam * DEQ

From: MANVEL Evan * DEQ
Sent: Wednesday, July 29, 2026 10:40 AM
To: EITE Cpp * DEQ
Subject: FW: SEIU 503 comments on Climate Protection Plan RAC #2 (July 29th, 2029)



Evan Manvel

Senior Climate Policy Advisor
OR Department of Environmental Quality
700 NE Multnomah St. Suite 600
Portland, OR 97232
971-266-9122
pronouns: he/him/they

From: Anthony Castaneda <castanedaa@seiu503.org>
Sent: Wednesday, July 29, 2026 10:08 AM
To: SINGH Nicole * DEQ <nicole.singh@deq.oregon.gov>
Cc: DORER Whitney * DEQ <whitney.dorer@deq.oregon.gov>; MANVEL Evan * DEQ <evan.manvel@deq.oregon.gov>
Subject: SEIU 503 comments on Climate Protection Plan RAC #2 (July 29th, 2029)

Some people who received this message don't often get email from castanedaa@seiu503.org. [Learn why this is important](#)

Dear DEQ and members of the Rulemaking Advisory Committee (RAC)-

My name is Anthony Castaneda, and I am the Policy and Political Strategist of SEIU Local 503. I submit this written commentary because I am unable to give verbal commentary for the CPP RAC meeting on July 29th.

SEIU Local 503 currently represents over 70,000 workers throughout Oregon. We have historically fought for fair training, reemployment protections, and wage standards, while also supporting sustainability goals and union jobs throughout the clean energy transition.

SEIU stands in support of Oregon's Climate Protection Program goals because it drives decarbonization and investments that modernize mills and factories, reduce harmful emissions, and support a just transition. Electrification upgrades and cleaner combustion technology can lower operating costs and improve workplace air quality—reducing health risks for workers who are often exposed to dust, chemicals, and steam. This, in effect, preserves the health of my workers, while preserving good, union jobs.

We are supportive of having flexibility for EITEs in their benchmarks while continuing to hold the greater climate and public health goals in mind. As such, we are not supportive of delaying compliance for CPP for another two years until 2030. Not only does this miss Oregon's sustainability goals, but it is difficult

for our workers to plan, prepare for, and train for more modernized technologies when regulatory programs are delayed. Rather, we ask this agency to stick to a timeline and allow us a seat at the table to help EITEs do intentional planning.

Sincerely,

Anthony Castaneda

Anthony Castaneda

Political and Policy Strategist,

SEIU Local 503

Work: (503) 902-2649

Member Assistance Center: 1-844-503-SEIU (7348)

"SEIU 503 is a Union of 72,000 public services workers and care providers in Oregon. We envision a just and vibrant society where everyone is treated with dignity and respect, and where all people can provide for themselves and their families."



Jessica Spiegel
Vice President, Northwest Region

August 17, 2026

Evan Mandel
Climate Protection Program EITE Rulemaking
Oregon Department of Environmental Quality (ODEQ)
700 NE Multnomah Street, Suite 600
Portland, OR 97232

RE: July 29 RAC Meeting - Climate Protection Program EITE Rulemaking

Dear Evan and Rulemaking Team:

The Western States Petroleum Association (WSPA) appreciates the opportunity to provide input regarding the ongoing rulemaking to incorporate emissions-intensive, trade-exposed (EITE) industries into the Climate Protection Program (CPP). WSPA is a non-profit trade association that represents companies that safely explore for, produce, refine, transport and market petroleum, petroleum products, natural gas and other energy supplies in California, Washington, Oregon, Nevada, and Arizona. Our members are among the principal suppliers of gasoline and diesel fuels to Oregon. Further, our members operate EITE facilities in other jurisdictions and understand the concerns that EITEs in Oregon are raising in the ongoing rulemaking process.

WSPA shares the concerns about the feasibility of the program that EITEs have raised. The plea from EITEs for feasible emission reduction trajectories should be heard. In parallel, WSPA has consistently raised feasibility and functionality issues with the CPP for fuel suppliers. Early in the meeting, ODEQ staff indicated that *"we're looking at the impact on the other program participants."* As currently indicated by ODEQ, the program will be managed as a zero-sum game once an initial baseline for the EITEs is incorporated into the program's GHG inventory. WSPA would strongly oppose any increased stringency for the remaining covered entities (i.e., liquid fuel, propane and natural gas suppliers) that would result from a relaxed decline trajectory for EITEs versus the overall CPP.

CPP Feasibility and Changed Modeling Assumptions

As noted above, the feasibility of the program is highly suspect. The modeling study commissioned with ICF in 2021 developed a reduction scenario of 50% (2035) / 90% (2050) that closely resembles what the Environmental Quality Commission adopted in 2021 and

reiterated in adoption of the new CPP in 2024. This scenario exceeded its cap after 2042.¹ Further, this model incorporated Senate Bill (SB) 1044's light-duty zero-emission vehicle regulations and vehicle sales assumptions through 2035 as part of its transportation reference case.² SB1044 established Oregon's policy objective that at least 90% of new light-duty vehicle sales be zero-emission vehicles by 2035. As reported by Oregon Department of Energy (ODOE) in its 2025 biennial report to the Oregon Legislature, the associated goal in SB 1044 for 250,000 registered EVs in 2025 was significantly missed, as there were only about 120,000 vehicles registered as of May 2025.³ Although ODOE concluded that Oregon remained on track for the 2030 and 2035 sales goals, Federal policy subsequently changed materially; the September 30, 2025 expiration of the federal New Clean Vehicle Credit has further challenged sales of these vehicles. Indeed, the report's executive summary asserts that *“(a)t the federal level, the loss of incentives and regulatory certainties are likely to affect availability and affordability, especially for low-income and rural Oregonians, where upfront costs and charger availability are significant barriers.”*⁴ Ongoing rulemaking for the Clean Fuel Program is even more explicit, where it was noted that *“(r)ecent Federal changes have likely slowed EV adoption.”*⁵

CCI Utilization Differs Materially from the 2021 Modeling

CCI utilization is another aspect where the current policy outcomes are also unlikely to resemble the utilization assumed in the 2021 modeling, making functionality also uncertain. ICF's Scenario 3 assumed that CCI credits could satisfy up to 25% of the compliance obligation in every modeled year,⁶ and the model results indicated that *“(i)n all scenarios, banking of compliance instruments played an important role, and community climate investments (CCIs) were used almost to the fullest extent permitted for each scenario.”*⁷ This effectively provided substantial CCI-based compliance capacity beginning early in the program. Under the adopted CPP, CCI utilization is lower – 15% in the first compliance period and 20% thereafter – and unused CCI utilization capacity from an earlier compliance period cannot be carried forward to increase the percentage available in a later period.

¹ www.oregon.gov/deq/ghgp/Documents/GHGCR2021MSsummary.pdf at Table 2

² www.oregon.gov/deq/ghgp/Documents/GHGCR2021MSMethodReport.pdf at Table 2

³ www.oregon.gov/energy/data-and-reports/Documents/2025-BIZEV.pdf, see Executive Summary

⁴ Ibid

⁵ 2026-27 Rulemaking Kickoff Listening Session Oregon Clean Fuels Program, at slide 16

⁶ www.oregon.gov/deq/ghgp/Documents/GHGCR2021MSMethodReport.pdf at Table 1

⁷ www.oregon.gov/deq/ghgp/Documents/GHGCR2021MSsummary.pdf at page 7 (PDF pg 8)

As ODEQ is aware, there has been no actual acquisition of CCI credits to date as none have been available nor are even expected to be available until the end of 2026. In addition, when ultimately available, the cost of CCI credits will be a relatively expensive compliance mechanism. Their comparatively high cost will further reduce the likelihood of significant utilization of these credits for future compliance. A further deviation from the 2021 model inputs is the treatment of CCI credits in the CPP. Current rules do not allow CCI credits to be traded and limit the period for which unused CCI credits remain available for compliance. This is in contrast to the modeling assumption that “*CCIs can be banked or traded.*”⁸ Consequently, to the extent actual early-period CCI credit use falls below that assumed by ICF, the foregone compliance flexibility cannot simply be recreated in later periods because unused CCI utilization capacity does not increase the percentage of the compliance obligation that may be satisfied with CCI credits in a future period.

Co-Benefits Should Be Evaluated on a Measure-Specific Basis

Finally, WSPA is concerned about the co-benefits assertions made during the last RAC meeting, which assume that GHG reductions predictably deliver criteria pollutant co-benefits. This assumption is not merely unsupported – it can be backwards. Many of the control technologies facilities use to reduce criteria air pollutants, such as thermal oxidizers used to control volatile organic compounds and carbon monoxide, are energy-intensive and increase GHG emissions. Washington's Department of Ecology reached a similar conclusion in a March 2026 technical analysis, finding that “*certain air pollution control measures have a trade-off*”⁹ with GHG emissions, and that a policy assuming GHG reductions reliably produce criteria pollutant benefits risks “*disincentivizing the implementation of projects that specifically target criteria air pollutant emissions.*”¹⁰ The correlation between GHG reductions and any co-pollutant reduction is measure-specific, and a uniform relationship cannot be assumed in either direction.

Attempts to extrapolate potential health benefits from assumed co-pollutant reductions are even more uncertain: factors such as population density, local weather patterns, and baseline health conditions weigh heavily on any actual positive health outcomes. It is also important to recognize that a reduction in output from Oregon does not result in an environmental co-benefit; rather, this is simply leakage of both economic and emissions activity. Any consideration of co-benefits in establishing EITE reduction schedules should

⁸ www.oregon.gov/deq/ghgp/Documents/GHGCR2021MSMethodReport.pdf at page 17 (PDF pg 18)

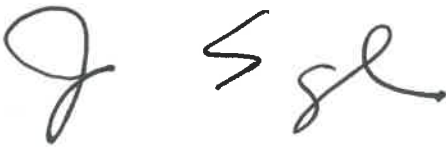
⁹ Washington Department of Ecology, *Facility-Specific Greenhouse Gas Emissions Caps: Evaluation of this Policy and its Potential Application to Washington's Cap-and-Invest Program*, Publication 26-14-022 (March 2026) at page 23.

¹⁰ Ibid

be based on demonstrated incremental changes attributable to the CPP, rather than assumed relationships between GHG and other air pollutant emissions. The analysis should account for the specific compliance pathway, existing regulatory requirements, changes in production, potential emissions leakage, and any offsetting environmental impacts.

We appreciate ODEQ's consideration of stakeholder perspectives through the RAC as part of the rulemaking process. Getting this element of the program right, in a way that doesn't further challenge an already challenged program, will be a positive step forward. WSPA looks forward to continued dialogue as the rulemaking process moves forward.

Sincerely,

A handwritten signature in black ink, appearing to read 'J Spiegel'.

Jessica Spiegel
Vice President, Northwest Region

