State of Oregon
DEQ Department of Environmental Quality

Draft Fiscal Impact Statement, Racial Equity Statement, and Environmental Justice Considerations

Climate Protection Program Emission-Intensive, Trade-Exposed Rulemaking

Request for advisory committee comment

DEQ is requesting feedback and any additional data or information from members of the rulemaking advisory committee on:

- Whether the proposed rules would have a fiscal impact and the extent of that impact
- Whether the rules will have a significant economic effect on businesses, and options the Environmental Quality Commission should consider for achieving the rules' substantive goals while reducing any negative impacts
- Whether the proposed rules would have a significant adverse effect on small businesses, and if yes, how might the Environmental Quality Commission reduce that impact consistent with the public health and safety purpose of the proposed rules
- Potential racial equity impacts of the proposed rules
- Potential environmental justice considerations of the proposed rules

Introduction

The Climate Protection Program (CPP) Emissions-Intensive, Trade-Exposed (EITE) rulemaking addresses emissions-intensive trade-exposed sources and direct natural gas sources. EITE sectors include facilities like pulp and paper mills, frozen potato processors, steel mills, semiconductor manufacturers, chemical and concrete manufacturers, and more that are exposed to competitive trade pressures. Direct natural gas (DNG) sources are emissions-intensive, but do not operate in a designated trade-exposed sector and use natural gas distributed by an entity other than a natural gas utility.

The draft rules would replace existing rules that distribute compliance instruments to EITE and DNG sources based on percentage reductions from historic emissions which do not consider a source's annual production level. The draft rules propose to replace this approach with a process for setting benchmark greenhouse gas emissions intensity values for these sources. These are the number of metric tons of carbon dioxide equivalent allowed to be emitted per unit of manufacturing product or process. The draft rules also propose a process for sources to request adjustments to the data years used for the benchmarks, and a benchmarking process for new sources, products, and processes.

The draft rules include a schedule of reductions from these benchmark greenhouse gas emissions intensity values. They start at zero percent in 2028 and 2029 and move to 1.5

percent per year reduction starting in 2030. The draft rules also include a process for sources to request adjustments to the reduction schedules if reductions are not feasible. Further, the rules provide a relief option for sources that demonstrate a process upset or other than normal source operation incident resulting in at least 8% increases in emission intensities.

The draft rules also provide covered EITE and DNG sources with additional flexibility in the use of community climate investment CCI credits, with an EITE and DNG source being able to meet 30 percent of its compliance obligation with CCI credits and 60 percent of its compliance obligation with these credit subject to certain requirements.

The Climate Protection Program has three interrelated goals: to significantly reduce greenhouse gas emissions, to support a strong overall economy in the transition to cleaner energy, and to improve outcomes for Oregon's environmental justice communities. For the CPP EITE rulemaking DEQ's goal is to incentivize emission reductions at these facilities while recognizing the special circumstances they face as trade-exposed, and the role they play in supporting Oregon's economy. Avoiding leakage of emissions and economic activity, that is, the relocation of manufacturing and associated emissions from Oregon to places without emissions-reduction programs, is a key consideration for DEQ in this rulemaking.

The draft rules are informed by the Climate Protection Program 2024 rulemaking, the implementation of the Climate Protection Program, and the Climate Protection Program EITE rulemaking process, including data collection from EITE and DNG sources, listening sessions with interested parties, meetings with EITE and DNG sources, rulemaking advisory committee member and public comment to date and discussions with other jurisdictions with greenhouse gas emission reduction programs that regulate EITE industrial facilities.

The following parties will be directly affected by the draft proposed rules:

- Stationary sources that meet the applicability requirements to be covered emissions-intensive trade-exposed sources
- Stationary sources that meet the applicability requirements to be covered direct natural gas sources.

The following parties will be indirectly affected by the draft proposed rules:

- Fuel suppliers
    - Suppliers of liquid fuels and propane exceeding thresholds of greenhouse gas emissions
    - Natural gas utilities meeting the definition of local distribution companies

Statement of fiscal and economic impact

The focus of this statement is the anticipated fiscal impact of the CPP EITE draft rules on EITE and DNG sources, as compared to the current Climate Protection Program rules. This statement also considers anticipated fiscal impacts on fuel suppliers, also regulated by the Climate Protection Program, and indirect impacts on businesses, consumers, and local communities in Oregon are discussed in the Public section.

This fiscal impact statement does not quantify or calculate the costs of climate change in Oregon, or the benefits that the state will realize if climate change is limited relative to recent trends.

The CPP EITE draft rules include an emissions-intensity approach for EITE and DNG sources that support production growth while incentivizing emissions reduction at those sources. This

approach provides growing industries the ability to receive more compliance instruments, which are regulatory instruments providing sources the right to emit one metric ton of carbon dioxide equivalent of greenhouse gases. It also requires a reduction in emissions per unit of product or process.

During the Climate Protection Program 2024 rulemaking, advisory committee members representing EITE sources and others commented that EITE sources would prefer to have more direct control over all emissions, both manufacturing specific process emissions and emissions associated with natural gas supplied by utilities. Representatives commented that being energy-intensive and trade-exposed, these sources were facing greater economic impacts of the declining emission cap to their industries and work force and were at greater risk of leakage, the possible shift of emissions and business operations to an area outside of Oregon. They also commented there were less greenhouse emissions reduction strategies for heavy industry and specific manufacturing processes. As such these sources should be directly regulated with a lower emission reduction trajectory and with an approach that would not impact overall production and allow for production growth.

The draft rules create a process to set greenhouse gas emission intensity benchmark(s) for each source, based on the number of metric tons of carbon dioxide equivalent released per unit of manufacturing product or process. The draft rules adjust the existing reduction schedules, a percentage decline over time from the greenhouse gas emissions intensity benchmark.

The annual distribution of compliance instruments to EITE sources calculation:

benchmark (emissions/unit output)
x reduction schedule
x units output
= number of compliance instruments distributed

Hypothetical example:

benchmark	2.03045685 tons emissions per unit of product
x reduction schedule	98.5%
x units output	20,000 units produced
= compliance instruments distributed	40,000 (= 2.03045685 x 0.985 x 20,000)

The draft rules would set greenhouse gas emissions intensity benchmarks based on average emissions intensities of the years 2023-2025. They give DEQ discretion to use another set of years if DEQ determines the years 2023-2025 years contain a process upset or other than normal operations at a source.

In the draft rules, DEQ would distribute to EITE and DNG sources compliance instruments equal to 100% of their benchmark emissions intensity multiplied by their units of product or process for their first compliance period, 2028-29. DEQ anticipates this will reduce potential fiscal impacts on EITE sources and better protection against potential leakage. Future compliance periods would reduce the number of compliance instruments by 1.5 percent per year, until 2050.

Under the program, DEQ will distribute free compliance instruments to each covered EITE and DNG source. As the allowed intensity decreases over time, DEQ will distribute fewer compliance instruments per produced unit or unit of process. The overall number of instruments a source receives could grow if a source's production increases.

The CPP EITE draft rules provide various options and flexibility for covered EITE and DNG sources to comply such that a given covered entity may reduce its emissions in a way that aligns with its circumstances, perspective, and business needs. The declining limit on emissions intensity from covered EITE and DNG sources is an outcome-based regulatory approach to reducing greenhouse gas emissions. This approach does not mandate the use of any particular technology. Instead, it defines a total limit on emissions intensity and a reduction from that limit.

Covered EITE and DNG sources will demonstrate compliance once for total covered emissions for each two-year compliance period. For the 2028-2029 compliance period, covered EITE and DNG sources will receive compliance instruments based on 100 percent of their benchmark multiplied by their production levels. In the year following each compliance period, covered EITE and DNG sources must submit one compliance instrument or community climate investment credit for every metric ton carbon dioxide equivalent of covered emissions during the two-year compliance period.

The multi-year compliance period allows for sources to plan for and respond to annual variability.

Covered EITE and DNG sources that need additional compliance instruments beyond what they are allocated can acquire compliance instruments through trading with other regulated entities. They can also bank compliance instruments in one period for use in a subsequent period. Covered EITE and DNG sources can also elect to earn CCI credits by contributing funds to an approved CCI entity.

Covered EITE and DNG sources are anticipated to meet part of their compliance obligations by reducing their emissions intensity. This could take many forms, from updating boilers or other combustion-related emissions sources, to changing chemicals or other process-related emissions, to increasing overall production and therefore, usually, reducing average emission intensity per unit produced.

Those unable to reduce emissions, due to technological or economic limitations, can request pauses or adjustments from DEQ starting with the 2030-31 compliance period. This includes an assessment of the options available to each source to reduce covered emissions. DEQ can consider each source's specific circumstances in determining requirements for emissions reductions. This might include practices, processes or technologies that are available and cost-effective, and that maximize emissions reductions.

This statement focuses on the impacts of the changes to OAR 340-273, Climate Protection Program and impacts due to corresponding rules changes to OAR Chapter 340, Division 12, Enforcement Procedure and Civil Penalties, OAR Chapter 340, Division 215, Oregon Greenhouse Gas Reporting Program (GHGRP), and OAR Chapter 340, Division 272, Third-Party Verification (TPV).

Covered EITE and DNG sources

Administration, permitting, reporting, and recordkeeping

DEQ does not anticipate significant fiscal impacts for administration, permitting, reporting and record keeping for EITE and DNG sources as compared to the current rules, except if a source requests adjustments. All DNG and EITE sources are currently reporting emissions under DEQ's Greenhouse Gas Reporting Program with emission reporting subject to Third Party Verification and must apply for a CPP permit which includes providing data to DEQ.

While the additional requirement to provide production data to DEQ annually is not anticipated to significantly increase costs, the costs of Third Party Verification may increase under these

rules due to the requirement to verify production data. DEQ estimates this additional effort may mean 10-40 hours of consultant time at $200 per hour, or $2,000-$8,000 per annual verification.

EITE and DNG sources may experience a more significant fiscal impact if they wish to propose adjustments to the data years used for the benchmark greenhouse gas emissions intensity values, which would be done in the months after rules adoption. This may require 25 to 150 hours of staff and/or consultant time, at an expected rate of $200 per hour. This would be a new cost not incurred under the current rules. If the source changes its product or process, the EITE or DNG source may incur this cost again to adjust the benchmark.

DEQ requests detailed information from sources in the application to adjust any reduction schedules and to determine if emissions reductions or reduction strategies are not feasible. The costs to request these adjustments depends on whether a source has existing technical and professional staff resources that can conduct the required assessments, or whether they may need to contract with a third-party consulting firm to assist. Costs will also depend on the industry type and will be specific to the complexity of each source's individual business.

DEQ does not have specific information to quantify all costs associated with conducting a request to adjust reduction schedules, but DEQ estimates that it may take approximately 150-300 hours of facility staff time and/or consultant time. At a rate of $250 per hour, estimated costs are $37,500-$75,000.

Table 1: Estimated increased administration, permitting, reporting, and recordkeeping costs

Activity	Estimated unit cost ($/hour)	Estimated units (hours)	Estimated cost	Cost recurrence
Production recordkeeping and reporting	$100	1-10	$100-$1,000	Per year
Third-party verification of production data	$200	10-40	$2,000-$8,000	Per year
Emissions intensity benchmark adoption/request for adjustment	$200	25-150	$5,000-$30,000	One-time or if product or process benchmarks change
Reduction schedule adjustment request	$250	150-300	$37,500-$75,000	As needed

Covered EITE and DNG sources and reducing greenhouse gas emissions

The draft rules are designed to incentivize emission reductions at these facilities while providing more flexibility than the current Climate Protection Program rules. Currently because of their unique circumstances and the role they play in Oregon's economy, EITE and DNG sources have a slower emission reduction trajectory that other entities regulated by the program. Though a source whose production and emissions are dramatically falling may have lower costs under the current program rule, most covered EITE and DNG sources are expected to have costs reduced if the proposed CPP EITE rules are adopted.

To summarize:

Current rules

Average emissions from 2022-23 x reduction schedule of 5% per two-year compliance period

= compliance instruments distributed

Proposed rules

Average emissions per unit produced from 2023-25 x reduction schedule of 1.5%/year x production

= compliance instruments distributed

Consider a hypothetical facility with the same annual 100,000 MTCO2e of emissions from 2022 through 2029. It then increased production from 100,000 units in 2029, to 120,000 units in 2030 and 2031, and saw its emissions increase 10% to 110,000 MTCO2e – emitting more but becoming more efficient.

As Tables 2 and 3 below demonstrate, the current rules would mean a need to find 27,500 compliance instruments; the draft rules would mean 14,600 compliance instruments over emissions. Under the current rules the source could earn CCI credits to cover the 30,000 compliance instruments, at a contribution amount of $129 (2024$) per CCI credit plus inflation, or $3,870,000 plus inflation. Under the draft rules the source could bank 14,600 compliance instruments for future compliance obligations or choose to trade some or all of these compliance instruments.

Table 2: Reduction schedules

Year	Emissions Reduction Target - Current Div 273	Emissions Intensity Reduction Target - Draft Div 273
2029	1.000	1.000
2030	0.950	0.985
2031	0.950	0.970
2032	0.925	0.955

Table 3: Scenario of facility with benchmark of 1 MTCO2e/1 unit product

Year	Production (units)	MTCO2e	Current Div 273 Distributed compliance instruments:	Draft Div 273 Distributed compliance instruments (including some from future post-true up)
2029	100,000	100,000	100,000	100,000
2030	120,000	110,000	95,000	118,200
2031	120,000	110,000	95,000	116,400
Compliance instruments distributed compared to compliance obligation			- 30,000	+ 14,600

during 2030-2031 compliance period		

Of course, some sources may see production decreases, leading to increases in emissions intensity. The slower reduction schedule (1.5%/year instead of 2.5%/year) should assist in this situation, as should provisions for relief if a substantial disruption to facility-wide production results in significant increases in emission intensity.

Regardless, sources may have to implement emissions reduction strategies to comply with these rules. Costs to reduce greenhouse gas emissions will vary by strategy, business, and industry. Strategies to reduce emissions vary and can include fuels, processes, equipment, technology, systems, actions, and other methods and techniques, such as business practices or other alterations to operations to result in greenhouse gas emissions reductions. However, as noted, the level of emissions reduction is generally expected to be lower than the existing rules.

Only in circumstances where emissions intensity reduces significantly more slowly than overall emissions, or increases significantly faster than emissions, would a covered EITE or DNG source have increased costs compared to the current rules.

For a previous climate program, DEQ contracted with ICF to analyze potential program options to implement a declining cap on emissions from the use of fossil fuels in commercial, industrial and residential settings in Oregon. While this analysis was done to look at options for an overall cap and reduce program and does not apply specifically to these draft rules as part of the study, ICF assumed some cost ranges to reduce emissions from industrial stationary sources based on external studies. The estimated costs for a given source to reduce greenhouse gas emissions, based on various strategies and industries, ranged from $61 to $245 (2026 dollars) per metric ton of emissions reduced.

The low estimate is based on EPA's Global Non-CO2 report and may represent some costs to reduce emissions for polystyrene foam product manufacturing. The high estimate is based on the McKinsey and Company marginal cost abatement study and may represent some costs to reduce emissions for cement manufacturing. These costs can be assumed to account for equipment, supplies, labor and increased administration required for businesses to comply. These costs also represent net present value and therefore account for cumulative emissions reductions achieved across a given time period from that study, rather than a cost for a particular snapshot in time. These costs do not necessarily represent a potential direct cost or savings to an EITE or DNG source, but rather represent the total cost per metric ton to achieve emissions reductions. Again, the proposed CPP EITE rules would generally result in lower required reductions to greenhouse gas emissions at covered EITE and DNG sources than inaction and therefore lower costs.

Another source of cost for reducing industrial emissions comes from the Rocky Mountain Institute which brackets costs of reducing emissions from a savings of $150 per MTCO2e reduced to a cost of $500 per MTCO2e reduced, depending on industry and technology. Pennsylvania investments in industrial decarbonization projects range from $7.78 to $20,632 per MTCO2e reduced, though these projects also had goals beyond decarbonization.

The cost of compliance for an EITE or DNG source will also depend on whether the source requests reduction schedule adjustments and whether DEQ approves them. There may be instances where DEQ does not require a source to take any actions because DEQ may determine the source has done what it reasonably can. In these cases, there would be no cost to reduce emissions, meaning an even greater savings over the status quo.

There could be positive economic effects on a EITE source if it expands production and is reducing its emissions intensity at a faster pace than 1.5% each year, resulting in receiving more compliance instruments than needed to demonstrate compliance. These compliance instruments may be sold to other regulated entities, a positive economic benefit, or banked for the future, reducing future costs.

The draft rules would also expand the ability for EITE and DNG sources to use CCI credits to meet their compliance obligations. Current rules limit the amount of CCI credits EITEs and DNGs are allowed to use in demonstrating compliance to 20% of their compliance obligation. The draft rules increase this to 30%, or, if a source can demonstrate it meets certain standards, 60%.

The draft rules should make it less likely than the current rules that a source would see curtailed production or in response to the program's requirements as compliance instrument distribution is tied to production, along with adjustment to the schedules and decreasing the required emissions reductions from a static 5% every two years of overall emissions, to the 1.5% emissions intensity reduction per year.

Operations could shift to an area outside of Oregon not subject to this regulation, often known as leakage of business or greenhouse gas emissions. As noted above, during the development of the Climate Protection Program, industry representatives commented that being energy-intensive and trade-exposed industrial sources would face greater economic impacts from a declining emission cap including risks to their industries and work force and were at greater risk of leakage. In response, DEQ committed to developing a greenhouse gas emission intensity approach for distributing compliance instruments to EITE and DNG to better mitigate potential leakage allow for production growth. A 2018 Vivid Economics study commission by the State of Oregon's Carbon Policy Office, "Oregon Sectoral Competitiveness under Carbon Pricing," reviewed potential leakage risks and trade exposed industries in detail. Overall, these draft rules make leakage of emissions and business less likely than the existing rules.

Enforcement

There are costs related to being involved in an enforcement action that includes correcting the violation and the payment of civil penalties, if assessed. The draft rule changes would not create economic impacts for EITE and DNG sources unless they fail to maintain compliance with program requirements. The economic benefit rule in OAR 340-012-0150 exists to level the field between violators and non-violators, and the proposed amendment is intended to have that effect.

Covered fuel suppliers and local distribution companies

All sources covered by the Climate Protection Program, including liquid fuel and propane providers, local distribution companies, and EITE and DNG sources, are under a single emissions cap. The cap, in Oregon Administrative Rule 340-273-9000 Table 2, increases in 2028 once the EITE and DNG sources are brought into the program to account for emissions associated with EITE and DNG sources, but otherwise decreases.

The existing rules first allocate compliance instruments to covered EITE and DNG sources, with the remaining instruments distributed to fuel suppliers with a different approach for natural gas utilities and for liquid fuel and propane providers. Moving to emission intensity approach for EITE and DNG sources in these draft rules from the current program rules means there is greater uncertainty in the number of compliance instruments that would be distributed to fuel suppliers.

The current program includes several compliance flexibility options for fuel suppliers and local distribution companies to help mitigate costs while achieving significant emissions reductions. Compliance flexibility provisions include two-year compliance periods, the ability to bank unused compliance instruments, the ability to trade compliance instruments, and the ability to choose to earn community climate investment credits.

However, fuel suppliers are likely to receive a smaller number of compliance instruments as compared to the current rules, over time. As noted above, the draft rules include a shift to the emissions intensity approach, slower reduction schedules for EITE and DNG sources, and various provisions designed to assist EITE and DNGs with compliance. This likely means a smaller remaining pool of compliance instruments for covered fuel suppliers. The effect could be more pronounced if, for example, there is significant production growth at EITE and DNG sources, or if a significant number of adjustments to reduction schedules are approved by DEQ. If fuel suppliers were to receive less free compliance instruments as compared to the current rule due to these factors, there could be more upward pressure on these regulated to further reduce emissions or increase usage of CCI credits when demonstrating compliance.

DEQ is not able accurately forecast the scale of the impact of these rules on the growth or shrinkage of compliance instruments at covered EITE or DNG sources, and therefore the change in the pool of remaining compliance instruments.

In one hypothetical situation, where this rulemaking means the EITE and DNG share of the total emissions cap increases by 20% over the current rules by 2035, local distribution companies still get their calculated share of the remaining instruments. However, as the pool of remaining instruments would decrease, local distribution companies would receive approximately 2% fewer instruments, the costs of which may be passed on to customers. Liquid fuel providers would also receive approximately 2% fewer instruments, the costs of which may be passed on to consumers.

Statement of Cost of Compliance

State agencies

DEQ staff will implement the program and provide technical assistance to covered entities about how to comply with program rules. DEQ staff will need to review source applications for adjustments to the default benchmarks and applications for adjustments to reduction schedules or adjustments due to large production downturns. Implementing the CPP EITE draft rules will require DEQ to develop new data collection protocols, and to update Your DEQ Online (YDO) to collect additional information from covered EITE and DNG sources and ensure compliance.

Local governments

The CPP EITE draft rules do not impose any direct fiscal or economic effects on federal, state, or local agencies or tribal governments.

These draft rules are designed to mitigate potential leakage. Local governments may realize benefits to the local economy, increased property taxes and other local taxes from these rules making it easier for EITE and DNG companies to stay in Oregon and grow.

Federal, state, and local agencies and tribal governments are indirect consumers of EITE and DNG goods. They may see cost savings from these rules.

They are also indirect consumers of transportation fuels, natural gas, and propane, where costs may increase.

Impacts to consumers, businesses and communities not directly regulated

Members of the public and businesses purchase goods from EITE and DNG sources and may see reduced costs due to these rules.

They are also consumer transportation fuels, natural gas and propane. The draft rules may increase those costs.

Examples of potential impacts may include:

- Goods manufactured at EITE or DNG sources would become cheaper than under the current rules. These cost-savings would likely be passed along to consumers, as these industries are generally in competitive markets.
- Fuel costs could change. These may be cost increases or, if clean fuels are more cost-effective than the fossil fuels they would replace, retail fuel prices may decrease. In addition, if businesses experience price changes, they likely will pass on these changes to their customers. The program's rules require DEQ to review potential program impacts on utility rates at least once per compliance period.
- Implementation of CCI projects may reduce costs to some. For example, if CCI credits are used to weatherize a building the heating costs to the occupant may be reduced even if the cost per unit of natural gas or propane used for heating increases.

Large businesses – businesses with more than 50 employees

Based on DEQ Greenhouse Gas Reporting data, DEQ estimates approximately 38 EITE and DNG sources may be directly affected by these rules. All of these are large businesses. The impacts described in the Cost of Compliance section above apply to:

- Large businesses that emit more than 15,000 metric ton carbon dioxide equivalent emissions annually. DEQ estimates there are approximately 37 such businesses.
- Large businesses defined as direct natural gas sources. DEQ has identified one such business.

Sources that fall under the 15,000 metric ton CO2 equivalent emissions per year and covered fuel suppliers may also be impacted.

Price changes will affect the economy as businesses and other consumers adjust to changes in the costs of fuels or goods, as discussed above. Businesses and consumers able to transition to less greenhouse gas emission intensive sources sooner may realize savings, while those that have difficultly transitioning may experience larger increases in costs.

Small businesses – businesses with 50 or fewer employees

ORS 183.336 - Cost of compliance effect on small businesses

Based on current Oregon Department of Employment data and Greenhouse Gas Reporting Program data, DEQ estimates approximately zero small businesses may be directly affected by these rules. The impacts described in the covered entities section above apply to:

- Covered stationary sources subject to EITE or DNG rules:
    - DEQ estimates there are no small businesses that are covered stationary sources.

a. Estimated number of small businesses and types of businesses and industries with small businesses subject to the draft rules

Based on Oregon Department of Employment 2025 data and Greenhouse Gas Reporting Program data, DEQ estimates approximately 5 small businesses may be indirectly affected by these draft rules. As shown below in Table 2, these are all suppliers of liquid fuels and/or propane.

Table 4: Small business counts by sector and at different thresholds

Covered Sector	Threshold	Count of Small Businesses
Covered fuel suppliers that are liquid fuels and propane suppliers	Greater than or equal to 100,000 MT CO2e (covered beginning 2025)	3
	Greater than or equal to 50,000 MT CO2e and less than 100,000 MT CO2e (covered beginning 2028)	1
	Greater than or equal to 25,000 MT CO2e and less than 50,000 MT CO2e (covered beginning 2031)	1
Covered fuel suppliers that are natural gas utilities	N/A (covered beginning 2025)	0
Covered EITE and DNG sources	Greater than or equal to 15,000 MT CO2e (covered beginning 2026)	0

b. Projected reporting, recordkeeping and other administrative activities including costs of professional services, required for small businesses to comply with the draft rule

These draft rules would not impact reporting, recordkeeping, or other administrative activities for small businesses.

c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the draft rule

Costs to small business associated with equipment, supplies, labor and increased administration are discussed in the covered fuel supplier section above.

Mitigation measures for small businesses

While DEQ currently estimates zero small businesses are subject to the draft rules, the program offers compliance flexibility options so each entity has several options to comply with the program while mitigating costs. An entity could adjust its business to reduce emissions to remain below the declining threshold for inclusion, or, if regulated, could reduce emissions in alignment with DEQ's free distribution of compliance instruments. Alternatively, if it is more cost effective, the businesses can use the various compliance options that are above, including:

- The ability to bank or save unused compliance instruments for use in the future
- The ability to trade compliance instruments
- The option to earn CCI credits

d. How DEQ involved small businesses in developing this draft rule

DEQ does not see these rules directly impacting small businesses. DEQ held listening sessions and convened a rulemaking advisory committee that included membership organizations that represent small businesses including Oregon Business and Industry. DEQ also provided notice of this rulemaking to entities currently reporting to the Greenhouse Gas Reporting Program and Clean Fuels Program, which include a number of small businesses.

Housing cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square foot detached, single-family dwelling on that parcel. DEQ determined the proposed rules will have no impact on the supply of housing or land for residential development.

The proposed rules will not impact the cost of labor or administration related to such development but may effect development costs because they could indirectly affect the price of materials used for such construction. For example, the indirect impact on the price of materials could occur if companies covered by the program that manufacture construction materials such as plywood, then pass through those increased costs in the price of their materials. As another example, the cost of cement used in the development could increase as a result of the proposed program. However, as previously discussed, these rules generally reduce costs for the wood products and cement industries compared to current rules. Other impacts are indirect and depend on the individual decisions of multiple businesses before resulting in land development cost increases, so DEQ is unable to estimate the amount of the increased costs, if any.

Racial equity impact statement

Longstanding systemic barriers built into government systems have left communities of color behind in accessing the programs and services that would offset the effects of history. Since the state's founding, Oregon's governmental policies and practices have had a role in both increasing and alleviating racial and other inequities. This statement focuses on how the Climate Protection Program EITE proposed rules impact racial equity.

Overall, the Climate Protection Program may increase racial equity by reducing greenhouse gas emissions from sources in Oregon, achieving co-benefits from reduced emissions of other air contaminants, and enhancing public welfare for Oregon communities, particularly environmental justice communities. Environmental justice communities include Oregon's communities of color

and tribal communities along with other communities traditionally underrepresented in public processes and adversely harmed by pollution and environmental and health hazards.

Communities of color in particular are disproportionately impacted by pollution from industrial sources, as these communities are often located near manufacturing and industrial facilities. So, reductions in greenhouse gases emissions and any associated co-pollutants would have benefits for racial equity.

However, as the proposed rules allow EITE and DNG sources to comply by reducing emissions intensity, instead of overall emissions, localized emissions could increase under the rules, harming racial equity. The overall change in emissions is uncertain. Moreover, compared to current rules, the various adjustments proposed under the draft rules mean anticipated emission reductions may not occur on the timeline originally envisioned by the program, including at facilities located near or in areas of East Portland, Lane County, and low-income rural areas, where there are higher concentrations of underrepresented populations.

Joint comments from the Green Energy Institute and other organizations referred to a forthcoming RMI study stating the current rule's 2.5% annual absolute emission reduction schedule would provide $10–$15 million by 2035 and $34.5–$50.1 million by 2050. Anything less than a 2.5% annual absolute emission reduction could reduce those benefits. So if the proposed change to a 1.5% annual emissions schedule, and the shift to intensity rather than absolute emissions reduces those emissions reductions, there would be a reduction in benefits.

That said, there are clear benefits to the draft rules helping retain businesses and jobs in Oregon. Many of the EITE and DNG sources, particularly those in rural communities, are key employers in their regions. Some have better pay and benefits than average local employers. The local jobs and revenue from these businesses, as well as community donations from many of them, can benefit communities of color near the facilities.

Under the current program regulated entities can choose to meet part of their compliance obligation by contributing funds to approved third-party CCI entities to earn CCI credits. Emission reduction projects funded by these investments are prioritized to benefit environmental justice communities and to be in and near these communities. The proposed rules allow for EITE and DNG sources to use a higher percentage of CCI credits, up to 60% of their compliance obligations if they meet certain requirements. Approved CCI entities are required to meaningfully engage and center environmental justice communities in their processes and projects, track and report on all CCI funds and projects, and gain approval from DEQ on work plans. Additionally, an Equity Advisory Committee reviews all deliverables from any approved CCI entity and provides feedback on those deliverables including work plans, community engagement, capacity building, and best practices.

DEQ has significant oversight of the CCI program ensuring accountability and transparency, including approving and contracting with third party CCI entities, establishing and supporting the Equity Advisory Committee, and supporting development of workplans informed by the priorities of a wide range of Oregon communities.

The CCI program is implemented with extensive engagement with environmental justice communities, communities disproportionately impacted by environmental pollution and climate change and less access to cleaner energy infrastructure, including tribal communities and communities of color. The CCI program aims to promote economic and health benefits and reduce burdens in these communities. Investments are prioritized to help ensure all parts of Oregon enjoy the benefits of transitioning away from fossil fuels to cleaner energy sources.

Depending on the specific programs and projects and specific communities supported through the CCIs, there will be various racial equity impacts. A few examples include:

- Reduced energy burden and improved living conditions from weatherization projects.
- Increased access to clean transportation through electric car share and micromobility projects.
- Improved indoor air quality and access to heating and cooling through heat pumps.

The proposed rules also have the potential for a negative indirect racial equity impact. It is possible that covered EITE sources will increase prices of their products to consumers as the compliance instruments allowing them to emit greenhouse gas emissions become scarcer over time.

Environmental justice considerations

Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, culture, education or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies. DEQ is committed to incorporating environmental justice best practices into its programs and decision-making, to ensure all people in Oregon have equitable environmental and public health protections.

Climate change caused by anthropogenic greenhouse gas emissions has detrimental effects on the overall public welfare of the State of Oregon. Reducing greenhouse gas emissions and mitigating climate change will improve the overall public welfare of Oregon. Reducing greenhouse gas emissions will improve the welfare of environmental justice communities, reducing the environmental burden on those communities.

The Climate Protection Program is designed to reduce greenhouse gas emissions from sources in Oregon, achieve co-benefits from reduced emissions of other air contaminants, and enhance public welfare for Oregon communities, particularly environmental justice communities. These are the communities that are disproportionately impacted by pollution, communities with less access to clean energy infrastructure, and traditionally underrepresented in public processes.

For this program, environmental justice communities are communities of color, communities experiencing lower incomes, communities experiencing health inequities, tribal communities, rural communities, remote communities, coastal communities, communities with limited infrastructure and other communities traditionally underrepresented in public processes and adversely harmed by environmental and health hazards, including seniors, youth, and persons with disabilities.

The Climate Protection Program incentivizes emissions reduction at regulated entities, supports reduction of emissions of other air contaminants that are not greenhouse gases, provide regulate entities with compliance options to minimize disproportionate business and consumer economic impacts, and allow covered entities to comply in part through contributing community climate investment funds to support projects that reduce greenhouse gas emissions and prioritize benefits for environmental justice communities in Oregon.

These proposed rules:

- Use a greenhouse gas emissions intensity benchmark approach.
- Increase the percentage of CCI credits that EITEs and DNGs can use to meet their compliance obligations from 20% to 30%.
- Allow EITEs and DNGs to apply to DEQ to use a higher percentage of CCI credits, up to 60% of their compliance obligations. This would only be allowed if sources have community benefit agreements and comply with the climate protection program.

As stated in the racial equity impact statement above, the use of CCIs may mean lower reductions of emissions at the source but more emission reductions from community climate investments, which prioritize environmental justice communities as previously discussed. Reducing the likelihood of investment and industrial production moving out of state could have mixed impacts. It could mean more localized emissions and co-pollutants, but also retained job opportunities and local investments.

Documents relied on for fiscal and economic impact

Document title	Document location
Testimony to DEQ about the rulemaking	https://www.oregon.gov/deq/rulemaking/Pages/cppeite2027.aspx
Oregon Greenhouse Gas Reporting Program data	https://www.oregon.gov/deq/ghgp/Pages/GHG-Emissions.aspx
Oregon Sector Competitiveness under Carbon Pricing by Vivid Economics 2018	https://ormswd2.synergydcs.com/ORMSCMSearchDEQ/Search/RecordViewer.aspx?uri=6685808
ICF Modeling Study on Program Options to Reduce Greenhouse Gas Emissions Assumptions, Data Sources, and Methods Report August 2021	https://www.oregon.gov/deq/ghgp/cpp/pages/modelingstudy.aspx
RECON Insights LLC, Energy Strategies LLC, Macroeconomic Impact Analysis Oregon's Department of Environmental Quality Proposed Climate Protection Program, October 2021	https://edocs.puc.state.or.us/efdocs/HAC/um2178hac164336.pdf
McKinsey & Company Decarbonization of industrial sectors: the next frontier, June 2018	https://www.mckinsey.com/~/media/mckinsey/business%20functions/sustainability/our%20insights/how%20industry%20can%20move%20toward%20a%20low%20carbon%20future/decarbonization-of-industrial-sectors-the-next-frontier.pdf
Regulatory Impact Analysis for the Mandatory Reporting of Greenhouse Gas Emissions Final Rule (GHG Reporting), EPA, September 2009	https://www.epa.gov/sites/production/files/2015-07/documents/regulatoryimpactanalysisghg.pdf
Oregon Employment Department, 2026 small business statewide data	Employment Department 875 Union Street NE Salem OR 97311

Document title	Document location
U.S Energy Administration Information, Oregon Natural Gas Industrial Price	https://www.eia.gov/dnav/ng/hist/n3035or3a.htm
U.S Energy Administration Information, Oregon Price of Natural Gas Delivered to Residential Consumers	https://www.eia.gov/dnav/ng/hist/n3010or3A.htm
Comparative Energy Use of Residential Gas Furnaces and Electric Heat Pumps	https://www.aceee.org/sites/default/files/publications/researchreports/a1602.pdf
Delaware Climate Action Plan Supporting Technical Greenhouse Gas Mitigation Analysis Report	https://documents.dnrec.delaware.gov/energy/Documents/Climate/Plan/DNREC%20Technical%20Report.pdf
Pennsylvania Climate Action Plan 2021	www.depgreenport.state.pa.us/elibrary/GetDocument?docId=3925177&DocName=2021 PENNSYLVANIA CLIMATE ACTION PLAN.PDF <span style%3D"color:green%3b"> <span style%3D"color:blue%3b">%28NEW%29 9/21/2023
Pennsylvania RISE PA MAT/LAT Grant database	https://experience.arcgis.com/experience/9c31240319ff430ea431626f82713d9e
Electrification and Decarbonization for Mid-sized Municipalities: A Case-Study Marginal Abatement Cost Analysis	https://cedar.wwu.edu/wwuet/973/
Oregon Business and Industry press release April 16, 2026	https://oregonbusinessindustry.com/cpplawsuit/
Oregon Business & Industry et al v. Oregon Environmental Quality Commission, Motion to Expedite Appeal of the Climate Protection Program	https://www.climatecasechart.com/documents/oregon-business-industry-v-oregon-environmental-quality-commission-motion_12de
NW Natural web page “New DEQ Climate Regulation in Oregon – CPP” accessed Oct 8, 2026	https://www.nwnatural.com/about-us/rates-and-regulations/cpp
Oregon Public Utility Commission Docket #: UM 2178, Natural Gas Fact Finding Per EO 20-04 PUC Year One Work Plan, utility modeling and presentations	https://apps.puc.state.or.us/edockets/docket.asp?DocketID=22869
Greenhouse gas reduction and project cost estimates included in CCI entity applications	Oregon Department of Environmental Quality 700 NE Multnomah St. Suite 600 Portland OR 97232

Document title	Document location
Climate Pollution Reduction Grant - Oregon	https://www.oregon.gov/deq/ghgp/pages/climate-pollution-reduction-planning-grant.aspx

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