

HOW THE REDRAFT ADDRESSES ISSUES RAISED IN THE WORK GROUPS

Overview:

- Provides additional direction and clarity for the rulemaking process.
- Enhances oversight and good governance.
- Explicitly allocates investment dollars to rural areas.
- Provides transitional assistance to industry.

Key decisions will be overseen by the Legislature.

- The redraft is much more specific than the original bill, giving clear direction to the agencies on many issues and making rule-making easier and faster.
- Creates Joint Legislative Committee on Climate to monitor rule-making, update the law as needed, and make revenue allocation decisions.

Multiple citizen advisory committees will be consolidated into one.

- Several committees were combined into a single 21-person Program Advisory Committee, which will advise the Department of Environmental Quality and the Joint Legislative Committee on Climate during rule-making and after the program is in place. It will also recommend investment allocations to the Governor and the Legislature.

The redraft clarifies who makes investment decisions and what the decision-making process will be.

- Proceeds collected from the sale of permits to large emitters will be invested in local projects to reduce greenhouse gas emissions and protect against the impacts of climate change. Investment allocations will be handled through the normal legislative budget process.
- Investments will be made with market proceeds already received by the State from the biennium prior to July 1 of each even-numbered year.
- Dept. of Administrative Services (DAS) will oversee distribution of market proceeds.
- The Program Advisory Committee and appropriate agencies will recommend biennial investment allocations to the Governor for inclusion in her/his recommended budget prior to the next odd-year legislative session.
- The Joint Legislative Committee on Climate, created by this bill, will hold hearings and pass an appropriations bill to the Joint Committee on Ways and Means, which will then

approve or modify the appropriations and send the bill to the House and Senate floors for final approval.

The redraft clarifies provisions for workers whose industries may be affected by transition to a clean energy economy.

- Proceeds from permits purchased by industrial emitters will go to the Climate Investments Fund. The first 15% of the Climate Investments Fund goes to a “Just Transition” fund.
- Up to \$2.5 million will be reserved for direct financial support for dislocated workers.
- The remainder will go to training and retraining in clean energy jobs, administered by the Higher Education Coordinating Commission (Workforce Development).
- Note: California has experienced no documented dislocations so far in its cap-and-invest program.

Investments from the Climate Investments Fund are clearly laid out in the redraft.

- After the 15% dedicated to Just Transition, the remaining dollars will be distributed, via the legislative budgeting process described above, as follows:
 - a) 60% for the benefit of communities most impacted by climate change (as defined below). At least one third of that amount will be dedicated to rural impacted communities. These funds will be used for projects that reduce greenhouse gas emissions and make communities more resilient to the effects of climate change.
 - b) 20% for investments that increase carbon sequestration and heightened resiliency in natural and working lands, including forestry, agriculture, rangelands, and coastal areas.
 - c) The remaining 20% can be used in any areas of Oregon for projects that either (i) reduce greenhouse gas emissions and make communities more resilient to the effects of climate change or (ii) increase carbon sequestration and heightened resiliency in natural and working lands.

“Impacted Communities” are clearly defined in the redraft.

- Impacted communities are now clearly defined as areas that are disproportionately affected by environmental pollution and related health impacts, and are least able to cope with the effects of climate change: areas with low income, high unemployment, low levels of educational attainment and home ownership, high rent burden, and high proportion of sensitive populations (e.g., very young, very old).

- The Environmental Quality Commission (EQC) will work with the Portland State University Population Research Center, the Oregon Health Authority, and others to designate impacted community census tracts.

The redraft clarifies that linking with the Western Climate Initiative (WCI) jurisdictions (currently, California, Québec, and Ontario) produces the benefits of regional action while allowing Oregon to control its own priorities.

- The draft will make clear that all key decisions are in the hands of the State of Oregon.
- The WCI is a nonprofit organization which administers the auctioning of permits for the linked cap-and-invest jurisdictions. Joining the WCI harmonizes our approach with the broader region and lowers administrative costs for Oregon.
- The WCI framework requires states and provinces to remain on track to meet their pollution reduction goals, holds all participants to a minimum threshold, and prohibits them from enacting policies that would allow “gaming” of the market. At the same time, the framework provides states with a high degree of flexibility in otherways.

The redraft now clearly promotes the use of Oregon’s natural resources and their ability to sequester and store carbon as a means of combating climate change.

- As noted above, 20% of the Climate Investments Fund will be reserved for natural and working lands, including projects that promote resiliency to disease and forest fires, as well as projects that improve carbon storage in fields and rangelands.
- It became clear through the workgroup process that Clean Energy Jobs could do more than invest in climate change mitigation and adaptation. We could use our rich natural resources to help turn the tide on climate change through carbon sequestration and storage, where growing trees, vegetation, and soil absorb greenhouse gases and lock them away.
- The bill maintains the role of carbon offsets to enhance sequestration in Oregon.

The redraft addresses the proper role of forestry and agricultural offsets as a way of meeting greenhouse gas reduction requirements, while increasing stringency and better connecting projects to environmental and public-health benefits for Oregon.

- **House version:** Reduces the number of offsets that can be used to meet compliance obligations from 8% to 4%. No more than half of that 4% can come from projects that do not provide direct environmental benefits to the state (i.e., 2% plus 2%).
- **Senate version:** Maintains the 8% limit for offsets. No more than half of that 8% can come from projects that do not provide direct environmental benefits to the state (i.e., 4% plus 4%).

- **Both versions:** Clarify that offsets cannot be used where to do so would compromise the health of impacted communities and allow emitters to avoid local air quality standards.
- **Both versions:** Enable aggregation of offset projects in order to increase the economic efficiency and greenhouse gas reduction benefits of small offset projects.
- **Both versions:** Department of Environmental Quality (DEQ) will convene an offsets protocol advisory committee to advise the Environmental Quality Commission on designing protocols that will provide direct environmental benefits to the state as a whole, while best benefiting impacted communities, tribes, and working lands. The protocol advisory committee will also consult with the Dept. of Agriculture, the Department of Forestry, and the Environmental Justice Task Force.

The redraft clarifies treatment of high-emitting businesses that might be exposed to “leakage” concerns, or fear that they will leak (move) their operations into another state and pollute there.

- **Senate version:** Specifies the regulated industries that will be considered “Emissions- Intensive, Trade-Exposed” (EITE), and provides transition assistance to comply with the program.
- **House version:** Does not specify the industries that are initially to be considered EITEs; that designation is left up to the EQC with advice from a third-party analyst.
- **Both versions:** Businesses that are EITEs will receive free allowances for up to 90% of their compliance obligation in the first year of the program, based on a regional benchmark for their industry. A third-party analyst will advise the EQC in determining the regional benchmarks and the exact percentage needed to mitigate leakage for each specified industry.
- **Both versions:** The number of allowances directly given to the EITEs will decline over time, as the cap declines. The process will allow EITEs the ability and the incentive to reduce emissions gradually and predictably.
- **Both versions:** EITE status will be reviewed every three years. It is anticipated that more jurisdictions, including other countries, will adopt similar climate programs, and the need for transitional assistance will decline.

The program accounts for investments in emissions reduction already made by companies.

- EITE companies will receive free allowances of up to 90% of the average emissions coming from the industries in their region. Those who are ahead of the curve because of prior investments will be able to bank their extra allowances or sell them at a profit.
- Landfill methane emissions that are captured and converted into renewable fuel or electricity will not be subject to regulation.

- As industries internalize the cost of mitigating climate change, those companies that were early adopters of efficiency technologies will be increasingly cost-competitive.

The redraft builds price stability and flexibility into the Clean Energy Jobs program, while meeting emissions goals and transition to clean energy.

- The cap-and-invest framework maximizes flexibility and the most cost-effective emissions reductions.
- Linking to the broad WCI market will keep costs low and stable, with a built-in, predictable floor price for permits, and more options for compliance.
- Other cost-control mechanisms include a price containment reserve and the ability of businesses to “bank” allowances up to a certain level.
- Businesses can voluntarily choose to use offsets in most cases, as another way to comply with the program.
- The State will provide targeted direct allowances for free to high-emitting industries to provide additional time to adopt technology for a predictable, gradual reduction in pollution levels.
- Creation of the Joint Committee on Climate provides flexibility to address new developments.

The redraft clarifies which industries will be exempt from the program and which are not.

- Stationary entities, including utilities, emitting at least 25K tons of greenhouse gases annually, and all fossil fuel importers, are “covered entities,” regulated by the program.
- Emissions-Intensive Trade-Exposed entities (EITEs) and utilities will be provided with free allowances to continue to cover emissions up to certain limits. In most cases, those allowances will then qualify for sale as part of the WCI auction, rewarding innovation and early adoption of new technologies.
- Emissions from agriculture and forestry operations are not regulated under the program. These sectors will, in fact, benefit as they may be eligible to create offsets for purchase by covered entities. They will also be eligible for direct investments from the Climate Investments Fund.
- Marine and aviation fuels are exempt from the program, as they are in California.
- In the Senate version, emissions from fluorinated gases used in the semiconductor conductor industry, for which there are currently no technological alternatives, are temporarily exempt through 2025 in the Senate version of the bill.

The redraft recognizes the work being done by the investor-owned utilities under the “Clean Electricity and Coal transition program enacted in SB 1547 (2016) to remove coal from the grid and invest in renewable energy.

- As background, SB 1547 envisions a glide-path from 2021 to 2030, when coal is completely removed from Oregon’s electricity mix.
- **Senate version:** Provides investor-owned utilities with free allowances for the share of their emissions coming from coal through 2030. Allowances for the remainder of utility emissions due to fossil-fuel combustion will be consigned to the WCI auctions.
- **House version:** Utilities will consign allowances for all of their greenhouse gas emissions to the WCI auctions.
- **Both versions:** Consignment of state-provided allowances to the WCI auctions will send a strong market signal to transition to lower carbon alternatives. However, there will be a robust rebate policy to all customer classes (see below) to hold bills steady. This will send an “upstream” signal to change investment decisions and create transparency on the value of allowances, while having minimal net impact on electricity bills.

The redraft specifies how revenues generated by the program can be spent by investor-owned utilities.

- The bill makes clear that a utility’s revenues from sales in the auction market must be spent on behalf of its own customers for greenhouse gas reductions and to reduce energy bills.
- Within the relevant service territory, the funds for reduction of greenhouse gas emissions and energy bills are clearly prioritized as follows: low-income customers; then public entities, schools, non-profits, and small businesses; then energy-intensive industrial customers that do not qualify as EITEs; then other customers.
- Public Utilities Commission will periodically report to the Legislature on how investor-owned utilities are using revenues to benefit customers and meet the objectives of the program.

The role of consumer-owned utilities (COUs) in the program is clarified.

- Consumer-owned utilities (including municipal and other public power) are subject to regulation only if their greenhouse gas emissions exceed 25K tons annually.
- They will be allocated a proportionate share of free allowances and may choose to participate in the auction market. If they choose to participate in the auction market, they must use any auction revenues for the benefit of their ratepayers and for climate change mitigation and resiliency.
- Decisions on how to invest these dollars will be left up to the COU elected boards

but must be in line with the purposes of this bill.

- Boards will report to the Legislature on how they are spending these investments.

The redraft clarifies the point of regulation (POR) for fuels coming into the state, i.e., who is responsible for emissions from combustion of imported fuels or from imported electricity generated by fossil fuels.

- The bill clarifies that investor-owned utilities are the regulated entities for power they deliver, as are consumer-owned utilities that meet the 25,000-ton threshold and are the first jurisdictional deliverers (FJDs) of that power.
- The bill leaves open future discussions regarding the role of BPA as first jurisdictional deliverer.
- Natural gas utilities are responsible for their own fuel product, but not responsible for fuels traveling via their pipes for other gas marketers; those marketers are responsible for fuel they put into the system. Natural gas utilities are not responsible if an end user exceeds the 25K tons threshold and are therefore regulated on their own. Hence, no “double-counting” of emissions.
- Transportation fuel importers are the regulated entities for the fuel they import into Oregon, irrespective of their size (aside from those importing quantities deemed *de minimis*).

The redraft ensures that the voices of environmental justice communities will be heard during rule-making and once the program gets underway.

- The 21-member program advisory committee includes five members recommended by the legislatively-created Environmental Justice Task Force, as well as two from tribes and 1 from the field of public health equity.
- Funding will be dedicated to ensure that the Environmental Justice Task Force is finally able to meet its mission of researching and advising the environmental and natural resource agencies and commissions to avoid disproportionate impacts and invest in disadvantaged communities.
- The bill specifically calls out a number of areas where input from the EJ Task Force will be sought.

The redraft includes “Clawback Provisions” for investment or offset projects that fail to meet expectations.

- The bill gives DEQ the authority to investigate and invalidate offset credits and reclaim misused investment dollars.

Why it makes sense to move this bill forward during the short legislative session.

- The redraft and the redraft process demonstrate that it is indeed time to move forward with this vital work.
- Legislators have been working on cap-and-invest policy for several years, including

nonstop work for the last year. The redraft is the culmination of a process that consumed the entire 2017 long session. Using the short session to finish up work begun in the first half of the biennium is one of the reasons we created annual sessions.

- The redraft answers the major policy questions and provides clear direction to the state agencies that will be doing the technical planning and rule-making.
- As the bill makes clear, the program will not begin until a 2- to 3-year process of program-design and rule-making has been completed. Passage of the bill will get that process started, and it will be monitored by the new Joint Legislative Committee on Climate.