



MAJOR CONCERNS WITH OREGON'S CAP-AND-INVEST LEGISLATION AND WORKABLE SOLUTIONS TO ADDRESS THEM

(Based on most current Legislative Counsel drafts: 1/8/18)

1. Emissions are calculated 'in boundary' only and thus greatly attenuate the degree of impact.

There are three methods to account for emissions from Oregon's economy: in-boundary, consumption-based, or life cycle assessment (LCA), with the in-boundary method disclosing the smallest amount of emissions. Except for electricity, the legislation opts for the in-boundary method, which is restricted to direct emissions that occur within the state.¹ A more robust and policy-relevant basis for most sectors would be the life-cycle emissions associated with all goods and services produced by Oregon's economy.² This would help Oregon develop an international competitive advantage in production of climate smart goods and services that reduce emissions at each stage of a product's life cycle.³

Remedy: *To the extent practicable, a regulated entity's emissions should be calculated on a life-cycle-assessment (LCA) basis.*

2. Emissions from industrial logging operations are excluded.

Clearcutting and other industrial forest practices are by far the largest source of greenhouse gas emissions in the state, averaging over 33 million metric tons CO₂-e per year since 2000.⁴ Industrial forest practices also undermine climate resiliency by making the landscape more susceptible to drought, disease, wildfire, floods, landslides, low summertime streamflow, thermal pollution, fish kills, regeneration failures, exotic and invasive species and other climate change-induced impacts than natural forests.

Remedy: *Include industrial forestland owners as regulated entities.*⁵

¹ LC 44, 2018, Section 4. Available online at:

https://www.oregonlegislature.gov/helm/workgroup_materials/LC0044_DRAFT_2018_Regular_Session.pdf.

² LCA is the 'gold standard' adopted by thousands of companies worldwide:

<http://www.wri.org/blog/2011/10/ghg-protocol-gold-standard-accounting-greenhouse-gas-emissions>.

³ An overview of the current LCA standard for business and its competitive benefits can be accessed here:

<http://www.ghgprotocol.org/product-standard>.

⁴ Center for Sustainable Economy. 2017. Oregon Forest Carbon Policy: Scientific and technical brief to guide legislative intervention. Available online at: <http://sustainable-economy.org/category/climate-policy/>.

⁵ A new video by Pacific Rivers and Center for Sustainable Economy calls on Governor Brown and legislators to do this. It can be accessed here: (forthcoming)

3. There are no provisions to halt the construction of new fossil fuel infrastructure projects.

Proposed fossil fuel infrastructure projects like the Jordan Cove liquefied natural gas export terminal and Pacific Connector fracked gas pipeline undermine the global climate agenda by locking us in to decades of fossil fuel consumption and are antithetical to scientific consensus on 'keep it in the ground.' A new report by Oil Change International, based on a conservative emissions accounting methodology, found that the pollution from the entire Jordan Cove project will be equivalent to over 15.4 times the Oregon's current #1 GHG emitter, the Boardman coal plant.⁶ Put in a different way, if Oregon reaches its 2050 GHG reduction goals, the in-state emissions from Jordan Cove will be equal to 16% of Oregon's total emissions, while the lifecycle greenhouse gas emissions will be over 261%.⁷ Only by using accounting sleight of hand and ignoring reality could we permit facilities like Jordan Cove and still meet our GHG reduction goals.

Remedy: Prohibit permits or distribution of allowances to new fossil fuel infrastructure projects.

4. Large corporate polluters get unnecessary exemptions, exceptions, credits, and allowances.

In the redraft, after industry lobbying, there are significant new giveaways. "Emissions-Intensive, Trade-Exposed Industries" (EITE) receive free allowances for 90% of their compliance obligations in the first year of the program.⁸ The Senate version specifies what will be considered EITE, but the House version will not. Depending on its application, this could be a huge loophole. With Oregon's history of corporate giveaways (see Nike/Intel tax cuts and the lowest business taxes in the nation), it seems likely. In the Senate version of the bill, the semiconductor industry will receive a program exemption for the production of fluorinated gases until 2026.⁹ Investments already made in emissions reduction are retroactively credited to companies, taking away the incentive to lower emissions even further.¹⁰

Remedy: Remove exemptions, exceptions, credits, allowances, and base our regulation primarily in climate science, not the doom and gloom forecasts always delivered by industry.

5. Despite being discredited, carbon offsets remain an important strategy.

In the Senate bill, up to 8% carbon offsets are allowed to meet emissions reductions goals.¹¹ In the House bill, the number is 4%.¹² However, this figure masks the share of emissions reductions that could actually be achieved through offsets. In California, offsets could actually make up 85% of the

⁶ Oil Change International, 2018. Jordan Cove LNG and Pacific Connector Pipeline Greenhouse Gas Emissions. Full briefing available online at: <http://priceofoil.org/2018/01/11/jordan-cove-lng-and-pacific-connector-pipeline-greenhouse-gas-emissions/>

⁷ Id.

⁸ Oregon Legislature, 2017. Summary of Legislative Updates to Address Issues Raised in Work Groups (12/20/17). Available online at: [https://www.oregonlegislature.gov/helm/workgroup_materials/2%20ISSUES%20\(final\)%2012%2020%2017.pdf](https://www.oregonlegislature.gov/helm/workgroup_materials/2%20ISSUES%20(final)%2012%2020%2017.pdf)

⁹ Oregon Legislature, 2017. Summary of Policy Decisions on Specific Legislative Components (12/20/17). Available online at: [https://www.oregonlegislature.gov/helm/workgroup_materials/3%20POLICY%20DECISIONS%20\(final\)%2012%2020%2017.pdf](https://www.oregonlegislature.gov/helm/workgroup_materials/3%20POLICY%20DECISIONS%20(final)%2012%2020%2017.pdf)

¹⁰ Oregon Legislature, 2017, note 9.

¹¹ Id.

¹² Id.

overall emissions reductions through 2020.¹³ Despite language in the new bills addressing the need to verify offsets, the integrity of carbon offsets are difficult, if not impossible, to verify, according to the U.S. Government Accountability Office, and can actually result in emissions increases overall.¹⁴ In the EU, a 2016 report found that 85% of the offsets purchased were fraudulent.¹⁵ Offsets also create perverse incentives through well-known effects associated with moral hazard (paying people not to do harmful practices actually encourages more harmful practices for their ‘threat’ value) and adverse selection (polluters who are already planning to reduce emissions have an incentive to mask or delay these plans in order to get paid for doing it).

Remedy: *Remove carbon offsets from the bills.*

6. Emissions associated with suburban sprawl are excluded.

Each year, Oregon loses over 12,000 acres of prime forest and farmland to development.¹⁶ Carbon emissions caused by clearing native vegetation and foregone sequestration from paving over land can be quantified and regulated with existing methods and sources of information.

Remedy: *Include major developers as regulated entities.*

7. Emissions associated with toxic pesticides and fertilizers are excluded.

Aerial spraying of toxic chemicals on forests and farmland as well as application of nitrogen-based fertilizers are high-emissions practices that also jeopardize the safety of our water supplies.

Remedy: *Include chemical and fertilizer application operators as regulated entities.*

8. Emissions associated with factory farming and overgrazing are excluded.

Concentrated animal feeding operations (CAFOs) and large-scale cattle herds emit large quantities of methane – a greenhouse gas that is over 170 times more potent than CO₂ – and make the land more vulnerable to drought, fires, floods, invasive species, and erosion.

Remedy: *Include CAFOs and large ranching operations as regulated entities.*

9. There are no provisions to reduce the sale of gas guzzling SUVs and other oversized vehicles.

Transportation emissions represent the sore spot in Oregon, California and many other states largely due to the massive increase in gas guzzling SUVs and other oversized vehicles.¹⁷

¹³ Mulkern, Anne. 2011. Offsets could make up 85% of Calif.’s cap-and-trade program. New York Times, August 8th, 2011. Available online at: <http://www.nytimes.com/gwire/2011/08/08/08greenwire-offsets-could-make-up-85-of-califs-cap-and-tra-29081.html?pagewanted=all>.

¹⁴ US Congress, Committee on Oversight and Government Reform, 2011. GAO Report Rips Readiness of Carbon Offset Market for Cap-And-Trade. Available online at: <https://oversight.house.gov/release/gao-report-rips-readiness-of-carbon-offset-market-for-cap-and-trade/>.

¹⁵ Institute for Applied Ecology, 2016. How additional is the Clean Development Mechanism? Summary available online at: <https://www.transportenvironment.org/news/85-offsets-failed-reduce-emissions-says-eu-study>.

¹⁶ DLCD, 2017. 2014-2015 Oregon Farm and Forest Report. Available online at: http://www.oregon.gov/LCD/docs/rural/2014-2015_Farm_Forest_Report.pdf.

¹⁷ E&E News, 2017. Auto Sales Hit New Record as Americans Buy More Gas-Guzzling Cars. Available online at: <https://www.scientificamerican.com/article/auto-sales-hit-new-record-as-americans-buy-more-gas-guzzling-cars/>.

Remedy: Include major dealers of SUVs and other oversized vehicles as regulated entities and calculate their emissions on a life-cycle assessment (LCA) basis.

10. The legislation will subsidize more logging under the guise of forest health and fire risk reduction.

The legislation buys into the rhetoric the timber industry has used to argue for more logging on public lands as a remedy for improving forest health and reducing fire risk. In particular, 20% of Climate Investment Fund Revenues are slated for projects that “promote resiliency to disease and forest fires” – code words for discredited commercial logging projects on public lands under the guise of forest health and wildfire risk reduction.¹⁸ Scientific studies over decades have shown that in most cases logging interventions make matters worse. Sideboards are needed to ensure that CIF revenues are only used for projects that are not contaminated by the profit motive, such as road decommissioning, culvert replacement, prescribed fire, weed removal, conserving roadless areas and non-commercial thinning of dense tree plantations to expedite their conversion back into real, climate resilient forests.

Remedy: Prohibit use of Climate Investment Fund revenues for logging projects.

11. Emissions associated with shipping and aviation are exempted.

By 2050 shipping and aviation could contribute 40% of our global CO₂ output.¹⁹ Failure to control these sectors jeopardizes fulfillment of the Paris “well below 2°C” ambition.

Remedy: Include major distributors of aviation and marine fuel as regulated entities.

12. Inadequate mechanisms for citizen oversight and enforcement.

The complexity and number of agency decisions associated with the legislation necessitate that it be help to the highest standards of governance with respect to access to information and citizen enforcement.

Remedy: Public participation, free access to information and citizen suit provisions for all significant program decisions.

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¹⁸ Oregon Legislature, 2017, Note 9.

¹⁹ Tristan Smith, 2015. “Two crucial omissions that could jeopardize Paris climate deal.” *The Conversation*, online, available at: <https://theconversation.com/two-crucial-omissions-that-could-jeopardise-paris-climate-deal-52341>.