



September 30, 2021

Ms. Katie Wolt  
Rulemaking Lead  
Washington Department of Ecology  
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*Submitted via online public comment form*

**RE: Environmental Defense Fund comments relating to the draft rule language for Criteria for Emissions-Intensive, Trade-Exposed Industries**

Dear Ms. Katie Wolt,

Environmental Defense Fund (EDF) is pleased to submit the following comments on the draft rule for Criteria for Emissions-Intensive, Trade-Exposed (EITE) Industries. EDF is a non-profit, non-governmental, and non-partisan organization that links science, economics, and law to create innovative, equitable, and cost-effective solutions to urgent environmental problems. EDF has over two million members, many of them living in Washington. EDF has long pursued initiatives at the state and national level designed to reduce emissions of climate-altering and health-harming air pollutants and brings deep expertise to climate policy issues.

EDF appreciates the effort that the Department of Ecology is undertaking to develop clear criteria for the designation of EITE industries. Accurate designation of EITE industries is an important step in creating a cap-and-invest program that can prevent emissions from “leaking” to out-of-state facilities, helping to safeguard against potential shifts of climate pollution to regions without regulation while simultaneously protecting jobs and the economic vitality of Washington’s communities.

In California, the [carbon intensity of the state’s economy has decreased while overall GDP has increased](#). Pollution is down while productivity is up; under California’s cap-and-trade program, manufacturing industries are more efficient, cutting emissions while expanding output. Through effective program design, Washington can realize these same outcomes within its industrial sector and cut climate pollution while protecting productivity and jobs – while also creating a strong model that can be replicated in other states.

At this moment, we would like to provide comments on two elements of the draft rules: the method for defining and measuring emissions intensity, and a process for regular reevaluation of EITE designation.

**Ensuring that emissions intensity is measured in relation to output**

Emissions intensity is a volume of emissions per unit of output or per unit of value produced. However, the formula in the draft rules calculates absolute emissions on a yearly basis instead of calculating emissions intensity. While there are various ways to measure emissions intensity, **Washington’s**

**regulation must include a true measure of emissions intensity as a measure of emissions per unit of output or value added**, not a measure of absolute emissions per year.

Emissions intensity must be measured in relation to production so that EITE facilities will receive more allowances with greater production instead of with greater emissions. This is the best way to create a strong incentive for those facilities to find ways to reduce greenhouse gas emissions while maintaining output. If designation is based on absolute emissions rather than emissions intensity, the Department risks creating an incentive to increase emissions instead of an incentive to reduce emissions intensity, as any industrial source with high enough absolute emissions would be considered emissions-intensive.

We recommend referencing the approach used in California Air Resources Board's (CARB) [Leakage Analysis](#), which includes an analysis of the implications of using various metrics to determine emissions intensity. CARB considered a number of methodologies for calculating emissions intensity, and ultimately chose an approach based on the methodology used by Australia's Carbon Pollution Reduction Scheme (CPRS). CPRS calculates emissions intensity based on output, in units of CO<sub>2</sub>e per million dollars of value added.

We further recommend ensuring that the Department of Ecology is able to collect necessary data on the reporting of production, including the value of a facility's annual production, in order to adequately determine emissions intensity.

### **Reevaluation of EITE designation**

For facilities that receive EITE designation that are not otherwise defined in statute, we recommend including a process for regular reevaluation of EITE designation in order to ensure that designated facilities continue to meet the criteria. Through regular reevaluation over time, the Department can ensure that facilities receiving the protections of EITE status continue to merit those protections. If facilities no longer meet the criteria, then they should no longer be considered EITE facilities—and it is important that the Department establish a regular process for assessing EITE status into the future. For proposed new facilities, we also recommend providing a provisional designation to be reevaluated with real emissions data once it is available.

### **Conclusion**

We appreciate the opportunity to provide comments on the draft rules for criteria for EITE industries, and we look forward to continued engagement on the implementation of the Climate Commitment Act.

Respectfully submitted,

Katelyn Roedner Sutter

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