

Process for adding industrial activities to the Emissions Performance Standards Program

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Process for the Addition of Industrial Activities to the Emissions Performance Standards (EPS) Program

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1.0 Introduction

1.1. Purpose

Ontario's Emissions Performance Standards (EPS) program regulates greenhouse gas (GHG) emissions from large industrial facilities. The program was developed as an alternative to the federal Output-based Pricing System (OBPS) and helps Ontario achieve GHG emissions reductions. The EPS program came into full effect on January 1, 2022.

The list of industrial activities currently covered by the EPS program is set out in Schedule 2 of the EPS Regulation. Industries engaged in an industrial activity set out in the schedule were determined to be at either a medium or high risk of carbon leakage and competitiveness impacts from carbon pollution pricing based on the ministry's assessment approach. To ensure the EPS program continues to meet the federal benchmark, additional industries may only be covered under the EPS program if they are assessed as being at either medium or high risk.

Section 2 of this paper outlines Ontario's carbon leakage and competitiveness assessment approach and how it will be used to determine whether other industrial activities should be added to the EPS program. Facilities in industries that are not listed in Schedule 2 of the EPS Regulation may request their industry¹ be assessed for competitiveness and carbon leakage risk from carbon pollution pricing.

Section 3 clarifies the administrative process that the ministry has put in place to allow for a request to add an industrial activity to the EPS program. This section also provides information regarding the data that is required for this assessment.

Section 4 provides ministry contact information.

1.2. Overview of Ontario's Emissions Performance Standards Program

The regulatory framework for the EPS program is set out in:

- [Ontario Regulation 241/19: Greenhouse Gas Emissions Performance Standards regulation](#) (O. Reg. 241/19 or EPS Regulation)

¹ Note that industry assessments will be made at the lowest level possible in the hierarchy of industrial classification (e.g., five-digit level of the North American Industry Classification System).

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- [GHG Emissions Performance Standards and Methodology for the Determination of the Total Annual Emissions Limit](#) (the EPS Methodology) which sets out the methods for determining the Total Annual Emissions Limit (TAEL)

The EPS program is supported by Ontario's GHG Emissions Reporting program, which provides the required verified emissions, production and emissions limit data for all registrants in the EPS program. These are needed to determine a facility's compliance obligation under the EPS program.

The regulatory framework for the GHG Emissions Reporting program is set out in:

- [Ontario Regulation 390/18: Greenhouse Gas Emissions: Quantification, Reporting and Verification regulation](#) (O. Reg. 390/18 or the Reporting Regulation)
- [Guideline for Quantification, Reporting and Verification of Greenhouse Gas Emissions](#) (the Guideline) which sets out the methods for quantifying and reporting GHG emissions from various activities as well as the supporting monitoring and measurement requirements

The EPS program applies to a number of facilities in primary and manufacturing industries (such as iron and steel, cement, auto manufacturing, etc.) and fossil fuel electricity generators based on a list of industrial activities set out in the Regulation (covered industrial activities). The full list of covered industrial activities is set out in Schedule 2 of the EPS Regulation.

Ontario facilities are required to register in the EPS program if they reported GHG emissions of 50,000 tonnes carbon dioxide equivalent (tCO_{2e}) or more to the Ministry of the Environment, Conservation and Parks (the ministry) for any year since 2014 and the primary industrial activity engaged in at the facility is listed in paragraphs 1 to 38 of Schedule 2 of the EPS Regulation.

Facilities may opt-in to the program if they are engaged in any covered industrial activity and meet one of these three criteria (see Section 4 of O. Reg. 241/19):

1. reported GHG emissions of 10,000 tCO_{2e} or more to the ministry for any year since 2014
2. substantially completed an eligible modification and is expected to emit 10,000 tCO_{2e} or more within three years of substantially completing the modification
3. started production at a new facility and is expected to emit 10,000 tCO_{2e} or more per year within three years of starting production

1.3. Federal Benchmark

Under the *Greenhouse Gas Pollution Pricing Act* (GGPPA), the federal government assesses provincial and territorial carbon pricing programs against a benchmark. In 2016, the federal government published the [Pan-Canadian Approach to Pricing Carbon Pollution](#), known as the federal benchmark, for the 2018-2022 period and provided additional guidance in 2017^{2,3}.

On August 5, 2021, the Government of Canada published its [Update to the Pan-Canadian Approach to Carbon Pollution Pricing 2023-2030](#) (the updated federal benchmark).

The federal government announced on November 22, 2022, that Ontario's proposed regulatory amendments to the EPS and GHG Emissions Reporting programs for the 2023-2030 period meets the federal benchmark (2023-2030). On December 13, 2022, the ministry posted a decision notice (ERO 019 5769) on the Environmental Registry regarding changes in the Emissions Performance Standards program for the 2023-2030 period.

Under the federal benchmark, the EPS program must only apply to industries that are assessed by the jurisdiction as being at risk of carbon leakage and competitiveness impacts from carbon pollution pricing.

² <https://www.canada.ca/en/services/environment/weather/climatechange/pan-canadian-framework/guidance-carbon-pollution-pricing-benchmark.html>

³ <https://www.canada.ca/en/services/environment/weather/climatechange/pan-canadian-framework/guidance-carbon-pollution-pricing-benchmark/supplemental-benchmark-guidance.html>

2.0 Ontario's Approach for Assessing Carbon Leakage and Competitiveness Risk

This section outlines Ontario's approach for assessing carbon leakage and competitiveness assessment risk of industrial activities. The Ministry will follow this approach to determine if new industrial activities should be considered for addition to Schedule 2 of the EPS regulation. MECP is expanding its assessment approach from the two-step approach used in 2019 and 2022 to a four-step approach that includes more detailed information if an industry does not meet the criteria in the first two steps of the assessment process. A new industrial activity will only be considered for addition to Schedule 2 if it is assessed as being at either medium or high risk under the four-step assessment approach. Any industrial activity being considered for addition to Schedule 2 will be posted on the Environmental Registry for consultation prior to regulatory amendment.

2.1. Assessment Metrics

Competitiveness and carbon leakage risk assessments use common metrics, such as emissions intensity (EI) and trade exposure (TE), that can be used together or individually in sequence to assess which industries face carbon leakage risks.

Emissions intensity and trade exposure serve as proxies for an industry's carbon cost and its ability to pass on those costs to consumers. The more emissions intensive an industry is, the greater compliance costs it would face. The greater an industry's trade exposure, the lower its ability to pass on costs. The degree of emissions intensity and trade exposure varies across industries

2.2. Assessment Approach

The first stage of the assessment includes two steps to assess the risk of carbon leakage and categorize the risk as high, medium or low.

- In step 1, the combination of EI and TE are used to classify industrial industries into a high, medium or low risk category.
- In step 2, TE is used as a standalone metric to reassess the classification for industries not classified as high risk in step 1.

The following tables set out the criteria to determine EI and TE as well as thresholds applied in setting the risk classification.

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Table 1 Formulas for EI and TE Criteria

Emissions Intensity	Trade Exposure
$\frac{\text{Emissions (tCO}_2\text{e)}}{\text{Gross Value Added (\$ M)}}$	$\frac{\text{Value of exports + Imports}}{\text{Value of domestic shipments + Imports}}$

Table 2: Thresholds Applied to EI and TE Criteria

	Step 1		Step 2
Risk Category	Emissions Intensity	Trade Exposure	Trade Exposure
High	≥ 1000	≥ 10%	≥ 30%
Medium	< 1000	≥ 10%	< 30%
Low	< 1000	<10%	<30%

For industries categorized as low risk after Step 2, two additional steps will be taken to reassess their classification where additional data is made available by the person requesting the assessment. These steps are:

- In step 3 the direct carbon cost as a share of revenue and TE are assessed.
- In step 4, the combination of the estimated ratio of direct and indirect carbon costs to the industry’s gross value added (GVA) and TE are applied to reassess the classification for industries categorized as low risk after step 3.

The following tables set out the thresholds that will apply to direct carbon cost as share of revenue and TE in step 3 and the ratio of direct and indirect carbon cost to GVA and TE in step 4.

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Table 3: Thresholds applied to direct carbon cost as a share of revenue and TE

	Step 3	
Risk Category	Direct Carbon Cost as a Share of Revenue	Trade Exposure
High	≥ 3%	Not Applicable
Medium	< 3%	≥ 10%
Low	< 3%	< 10%

Table 4: Thresholds applied to the ratio of direct carbon cost and indirect carbon cost to GVA and TE

	Step 4	
Risk Category	Ratio of Direct and Indirect Carbon Cost to GVA	Trade Exposure
High	≥ 3%	Not Applicable
Medium	1% - 3%	≥ 10%
Low	< 1%	< 10%

3.0 Assessment Process

Requested assessments will follow the administrative process outlined in this section.

3.1. Application Process

The person requesting the assessment will be required to:

1. Contact EPS Applications at epsapplications@ontario.ca and be provided with a form.
2. Submit the completed form along with data and information required for the assessment (see Section 3.2 for details) in the template provided by the Director to EPS Applications at epsapplications@ontario.ca. Also, provide a statement that the application is complete, accurate and true to the best of the person's knowledge.
3. Provide additional details that may be requested by the Director in writing.
4. Provide a report prepared and signed by an independent third-party, where non-public information is being provided for the purpose of assessment (see Section 3.2 for details).

3.2. Data and Information Required for the Assessment

To assess an industry's competitiveness and carbon leakage risk, the most recent three years of available data and information relevant to the potential competitiveness impacts of carbon pricing will need to be submitted with the request, including the following data for the appropriate NAICS level for the industry group.

- GHG emissions
- International trade (exports and imports)
- Gross value added, revenue and manufacturing sales (shipments)
- Direct carbon cost and indirect carbon cost

This data must be credible and available as:

- public information
- non-public information (i.e., data classified as confidential provided to the ministry for the purpose of the assessment and which is not to be made available to public) that is prepared and signed by independent third-parties.

Independent third-parties must prepare and sign the reports that accompany the non-public data and:

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- Be either a professional engineer certified in accordance with the Ontario law that governs the practice of professional engineering, or a chartered professional accountant certified in accordance with the Ontario law that governs the practice of professional accounting
- Have technical knowledge and expertise of greenhouse gas emission quantification methodologies for the industry, financial statements, financial accounts and audit practices
- Not be the owner or operator of the facility making the request or a director, officer or employee of the owner or operator of the facility or of an affiliate, or an employee or agent of the Government

3.3. Preliminary Results

Once the request is received by the ministry, it will be reviewed for completeness. The ministry will also review the completed data template and, if any additional information is considered necessary, the ministry will reach out to the person who has requested the assessment. If the preliminary assessment indicates that the industry is at a low risk, the ministry will reach out directly to the person making the request to indicate the outcome of the ministry's assessment. The person will have seven days to request a review of the ministry's assessment.

If the preliminary assessment results in the industry being preliminarily classified as medium or high risk, the ministry will consider posting a proposal to add the industrial activity, that the industry is engaged in, to Schedule 2 of the EPS regulation on the Environmental and Regulatory Registries for public consultation. Comments will be considered in finalizing the results of assessment.

3.4. Amending the EPS Regulation

The ministry will consider proposing to amend the EPS Regulation to add an industrial activity to the list of covered activities if the preliminary result of the ministry's assessment is that the industry engaged in that activity is at medium or high risk of carbon leakage and competitiveness impacts. Proposals to amend the regulation to add an industrial activity will be posted for public consultation

4.0 Contacts

4.1. Questions about the EPS Program

Ontario EPS Program Help Desk

- **Telephone:** 416-314-5352
- **Toll-free:** 1-888-217-3326
- **Email:** EPSHelp@ontario.ca

Ontario EITE Applications

- **Email:** EPSapplications@ontario.ca

4.2. Questions about the GHG Emissions Reporting Program

Ontario GHG Reporting Help Desk

- **Telephone:** 416-314-5352
- **Toll-free:** 1-888-217-3326
- **Email:** GHGReporting@ontario.ca