Updated December 2023

ONTARIO EPS AT A GLANCE

Years in operation	Began in 2022 with annual compliance period
Overall cap & trajectory	The Ontario EPS applies to facilities that emit over 50,000 tCO2e/year. Facilities that emit over 10,000 tCO2e in regulated sectors can opt-in to the EPS at any time. Emission reduction obligations are determined using a Baseline Emissions Intensity (BEI). Depending on the industrial sector, facilities may have a sector-wide BEI or a facility-specific BEI. BEIs are divided between fixed and non-fixed process emissions BEI.
Target(s)	30% below 2005 emissions by 2030.
Emissions reduced to date	No data is available yet
Sectors covered	The industrial activities currently covered by the EPS program, set out in Schedule 2 of O. Reg. 241/19, were previously determined to be at either a medium or high risk of carbon leakage and competitiveness impacts from carbon pollution pricing, based on MECP's assessment approach. The MECP published a process for adding industrial activities to the EPS program for which unregulated sectors can submit data for MECP's consideration. Additional sectors are being considered through proposed regulatory amendments ERO. 019-7649. This includes Battery Manufacturing (NAICS code 33591) and Coating, Engraving, Cold and Heat Treating, and Allied Activities (NAICS 3328).
GHGs covered	Greenhouse gases listed in Schedule 1 of the O. Reg. 390/18
# of covered entities	Covers approximately 200 facilities
Allocation method	Depending on the industrial activity engaged, there are two types of Baseline Emission Intensity (BEI). The Sector-wide BEI are average greenhouse gas emissions standards based on weighted average emission intensity for historical years. The facility-specific BEI is based on recent historical emissions and production information, if readily available, for the facility.
Trading rules	A facility may comply through any combination of payment of the Excess Emissions Units (EEU) (non-tradable) or use of Emission Performance Units (EPU) (tradable). EPUs expire on the 15th of December in the year that is five years after the compliance period in respect to which they were distributed
Use of offsets and linking	Offsets are not currently an option for compliance in the Ontario EPS.
Penalties for non-compliance	Any request for EEUs that is received after 1 December will be performed with a delivery date of 15 February of two years following

	the compliance period and the outstanding compliance obligation is increased by a rate of 3:1 also due on 15 February.
Use of revenues	2022 Proceeds will be notionally allocated to facilities (other than electricity generation) based on their 2022 compliance payment. The allocation method may need reconsideration for future program years to ensure alignment with the updated federal benchmark for 2023 and onwards.

Program Details

The Ontario Ministry of Environment, Conservation, and Parks (MECP) created the Emissions Performance Standards (EPS) program to regulate the GHG emissions of industrial facilities in Ontario as an alternative to the Federal Output-Based Pricing System (OBPS). On 22 October 2021, MECP published two amendments (Reg 730/21 and Reg 729/21) to align the EPS program to the federal OBPS, to ensure a smooth transition on 1 January 2022. The program follows the same pricing guidelines as the federal OBPS, with $50 per tCO2e in 2022 and increasing by $15 until it reaches a price of $170 in 2030. It also functions similarly to the federal OBPS. An emission performance standard establishes a limit on the amount of GHGs emitted from a facility, process, or equipment. Emitters are required to either reduce their emissions or pay for exceeding the limits by purchasing Excess Emissions Units (EEUs).

The Ontario EPS program only replaces the federal OBPS; therefore, the Federal Fuel Charge still applies on fuels combusted in Ontario.

EPS covered the same sectors as the federal OBPS, and with the updated 2023-2030 program design, additional NAICS codes were added, and they are all under schedule 2 of the regulation. Facilities that are not currently regulated are encouraged to continue engaging with the government for their sector, or facility to be added to the program.

On the other hand, facilities undergoing an eligible modification can update their BEI or develop a new BEI without being eligible for the three-year exemption.

In order to calculate the Total Annual Emissions Limit (TAEL), facilities use the sum of different methodologies that are based on sector-wide as well as facility-specific Performance Standards (PS). These methodologies are:

- Method A: Sector Performance Standard
- Method B: Electricity Generation Sector Performance Standard
- Method C: Cogeneration Thermal Energy Sector Performance Standard
- Method D: Facility Specific Performance Standard (Facilities Not Subject to Method E)
- Method E: Facility Specific Performance Standard
- Method F: Historical Facility Emissions Limit Standard

In the calculation of the Performance Standards (PS), stringency factors (reduction factors) are applied to Baseline Emission Intensities (BEI) to account for competitiveness and carbon leakage risks. Separate stringency factors are applied to fixed process emissions (FPEs) and non-fixed process emissions (non-FPEs). The 2023-2030 updated program design applies an annual tightening rate on the stringencies. There will be a 2.4% reduction in 2023 and a 1.5% reduction in each preceding year.

Facilities will evaluate their compliance position by comparing their regulated emissions with the Total Annual Emissions Limit (TAEL). Facilities emitting less than their TAEL will generate Emission Performance Units (EPUs) that can be banked for up to 5 years. EPUs can be used to cover the compliance position in future years or monetized based on a discount to the year's carbon cost. Facilities emitting more than their TAEL, will be subject to a compliance obligation equivalent to the difference between their emissions and TAEL. To fulfil their compliance obligation, facilities can either purchase credits from MECP known as Excess Emissions Units (EEUs) or use banked EPUs from previous years. Alternatively, facilities can purchase EPUs from the market.

While offsets are not currently an option for compliance in the Ontario EPS, the updated program does recognize Carbon Capture and Storage (CCS). CO2 captured on-site and transported off-site for permanent geological storage can be deducted from a facility's verified emissions to help reduce overall compliance.

MAJOR DEVELOPMENTS

On November 22, 2023, the MECP posted ERO. 019-7649, proposing changes to the Ontario EPS Program. Notably, the proposed amendments aim to revise how renewable natural gas (RNG) is treated within the program. Currently, RNG qualifies as biomass if its production aligns with regulatory definitions. This allows CO2 emissions from biomass to be deducted from reported emissions, reducing compliance costs for regulated entities. However, limitations exist—RNG is only recognized if combusted on-site, limiting its impact. The ERO posting proposes to recognize off-site combusted RNG in Ontario through an administrative process with Enbridge. This aligns with other Canadian carbon pricing programs where biomass, including RNG, is excluded from regulated emissions.

Additionally, the MECP proposed the transition of some sectors from facility-specific standards to sector-based, while not specifying the affected sectors or baseline years; only that this transition could start in 2025. This will cause certain sectors to see a change in their benchmarks and in turn, their carbon liabilities.

The MECP aims to better acknowledge sectors investing in decarbonization efforts, with a focus on the steel industry. They are proposing a reduced stringency for the steel sector for facilities undergoing transitions to cleaner production processes.

Two additional sectors were also announced to be undergoing assessments for inclusion in the program. The MECP will be assessing the carbon leakage risk for NAICS code 33591 (Battery manufacturing) and NAICS code 3328 (Coating, engraving, cold and heat treating, and allied activities). If either sector is determined as having a high or medium risk of carbon leakage, it will be added to the industrial activities in Schedule 2 and facilities in the province operating under the NAICS codes would have the opportunity to opt-in to the program (if also meeting the other required opt-in criteria).

Market Commentary

The Ontario EPS experienced its first compliance deadline under the program. Regulated facilities were required to compensate for their excess emissions for the 2022 compliance period by December 15th. Regulated facilities can purchase EEUs from the MECP or EPUs from other regulated facilities. EPUs are distributed by the MECP to facility accounts no later than November 15th of each year. As mentioned, offset credits are not eligible compliance units under the EPS program at this time.

The EPS Online platform functions similarly to the federal OBPS Credit and Tracking System (CATS) for viewing compliance obligations and credits in the facility accounts. However, the transfer of credits between facilities or payments to the MECP is carried out through the completion of physical credit request forms that must be submitted no later than December 1st of each year. The MECP will then transfer credits to the accounts and accept payments by the December 15 compliance deadline. This creates a tight timeline for carrying out transactions between facilities.

Due to the nascency of the EPS market, there is limited credit pricing information. Based on the first year of transactions in the market, ClearBlue witnessed EPUs trading at a discount between $3-$5 to the carbon price.

For 2022, the MECP announced that the compliance payments made for 2022 compliance will be returned to regulated facilities on a 1:1 basis. Therefore, the amount paid into the EPS will be returned directly to fund emission reduction projects. A facility was therefore required to choose between purchasing credits to reduce compliance costs and forgo the funding opportunity, or pay into the program and receive the payment back in the form of project funding. This approach impacted the market activity and credit demand for the 2022 compliance period.

The MECP has noted that this approach to funding may have to change for 2023 and onwards to align with the Federal Carbon Pollution Pricing Benchmark and ECCC's Guidance for Using Carbon Pollution Pricing Proceeds. The guidance dictates that provinces cannot give instant rebates tied to carbon exposure. Therefore, rebates cannot be returned at the point of purchase or funding cannot be returned 1:1, meaning facilities will not receive the same amount in funding that they paid in carbon payments.

Useful Links

Emissions Performance Standards Program

Update to the Pan-Canadian Approach to Carbon Pollution Pricing 2023-2030

Guidance for Using Carbon Pollution Pricing Proceeds to Support Canadian and Drive Climate Ambition

References

O Reg 241-19 Greenhouse Gas Emissions Performance Standards

O Reg 390-18 greenhouse Gas Emissions Quantification, Reporting, and Verification

O. Reg. 562/22: GREENHOUSE GAS EMISSIONS PERFORMANCE STANDARDS

Guideline for Quantification, Reporting and Verification of Greenhouse Gas Emissions

GHG Emissions Performance Standards and Methodology for the Determination of the Total Annual Emissions Limit

ERO. 019-7649 Regulatory amendments to clarify program requirements and improve program efficiency for Emissions Performance Standards (EPS) and GHG Reporting Programs

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