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To: Chair Helm and members of the House Energy and Environment Committee  
Subject: In support of HB 2669  
Date: March 20, 2017

Thank you very much for holding this hearing for HB 2669, a bill that provides Oregonians with an opportunity to improve public health. My name is Lisa Arkin and I represent Beyond Toxics, the statewide environmental health non-profit. I am also an appointed member of the Governor's Cleaner Air Oregon Policy Advisory Group. I'd like to describe three main benefits of HB 2669, and then briefly discuss Oregon's history on toxics emissions reporting.

The Toxics Reporting and Community Right to Know law as described in HB 2669 has three main benefits:

1. **It's about Public Input at the Local level:** People in communities across Oregon are learning that they are being exposed to hazardous air toxins, and they want to get involved in creating safer, healthier communities. The Community Right to Know requirement in HB 2669 will encourage residents to get engaged with their local public health officials using factual information about local pollution.
2. **It provides accurate Chemical Inventory Systems:** The program relies on materials balance reporting, which is an accurate chemical inventory system. Materials balance ensures that a company is keeping track of their hazardous chemicals and knows what happens to those chemicals during the manufacturing process. We've seen what can go awry when the fate of toxic chemicals is not tracked. Toxics reporting could have prevented the long delay before air regulators discovered that Bullseye and Uroburos glass companies were polluting local communities in far greater amounts than their pollution permits allowed.
3. **It gathers Comprehensive and Cross-Media Data:** The proposed program sets a standard for good science by reporting in multiple pollution streams: air, water, land, sewage, and waste. These exact calculations provide a comprehensive understanding of the full impact of toxic chemicals on Oregon's communities.

Unfortunately, comments submitted by an industry group claimed that "environmental activists" are trying to "undo" a statute on toxics reporting and community right to know programs. Oregon's history on the topic of pollution reporting shows that is not true.\* The truth is that, in 1999, eighteen years ago, HB 2431 was enacted over significant objections because it limited the ability of local governments to establish toxics reporting programs.

What is now an eighteen year-old statute is not a law cemented in place for all time. This statute (ORS 453.370) needs to be updated to reflect modern day principles of public engagement and growing scientific understanding about how air pollution harms our health.

In fact, Section 4 of original bill (HB 2431) passed in 1999 directed the DEQ to establish a policy advisory group to "explore options for enhancing statewide hazardous toxics substance reporting and data collection" from point source pollution.

The DEQ did convene national and local experts to form the Oregon Toxics Reporting Advisory Group. They presented their findings to the 71<sup>st</sup> Legislature in the year 2000. **Their final report contained many of aspects of the bill being considered today – HB 2669 – and recommended Toxics Reporting and Materials Balancing** systems to expand and advance statewide goals to reduce pollution and exposures. Recommendations include:

- a. Better quality data for agency decision-making, including cross-referencing data on air, water, and waste toxics pollution streams;
- b. Complete accounting of all hazardous substances releases *for the public*;
- c. More reliable measures of facility environmental performance;
- d. Identification of pollution prevention opportunities within facilities;
- e. Investing in communicating chemical use data for the public and workers;
- f. Materials balance recommended for facilities located in environmentally sensitive areas.

Sadly, not one of the Advisory Group's recommendations aimed at enhancing hazardous and toxic substance reporting has been implemented. The State failed to provide the one thing that was promised to the all Oregonians eighteen years ago, which is a comprehensive, multi-media and accurate toxics emissions reporting system that is accessible to the public.

That is exactly why it's important to pass HB 2669. The bill removes barriers and pre-emptions on local governments that were introduced into statute in 1999.

Let's not repeat history by shoving the topic of toxics and community health off to another study group, only to allow their report to be shelved and ignored for nearly two decades. It's time for Oregon to adopt local toxics reporting and guarantee the rights of parents, school districts and day cares, property owners and neighboring businesses the right to know what is in the air they breathe and the water they drink. This is particularly important for children, whose developing brains and organs are the most vulnerable to exposure from toxic chemicals.

We urge legislators to be responsive to communities overburdened by toxic pollution. Oregonians can be proud that our state is working to improve environmental health outcomes, but we must do more. Local governments and their constituents have the right to know about toxic pollution that may impact their neighborhoods.

On behalf of over 4,000 Beyond Toxics members statewide, we urge members of the House Energy and Environment Committee to enthusiastically support the passage of HB 2669.

Sincerely,



Lisa Arkin, Executive Director

\*Following is a discussion of the claims made by Oregon Associated Industries regarding the passage of HB 2431 in 1999 and the history of toxics reporting and community right to know in Oregon.

## Appendix to Lisa Arkin's Testimony for HB 2669 – 3/20/2017

The objections to HB 2669 submitted by the Association of Oregon Industries (AOI) fail to recognize the history of Oregon's efforts to address toxic pollution and chemical substance reporting for public education and engagement. Some of the main points are discussed here:

*AOI Claim #1: HB 2669 would somehow “undo” ORS 453.370, which “authorizes” local governments to enact local toxics reporting and community right to know program.*

**Rebuttal:** In 1966, voters in the City of Eugene adopted a Toxics Right-to-Know Program. The charter amendment has its framework in the federal law (the Emergency Planning and Community Right-to-Know-Act (EPCRA) 42 U.S.C.). EPCRA enables state and local authorities, as well as the public, to gather information regarding the storage and accidental release of chemicals. The Eugene law adds requirements for materials balance reporting and the community database.

- **HB 2669 seeks to remove political obstacles that were created in 1999 so that more local governments can adopt local toxics reporting and community right to know programs to improve public health.**

*AOI Claim #2: Industries “already report hundreds of chemicals...”*

**Rebuttal:** The local toxics reporting and community right to know program is unique and non-duplicative to any other toxic chemical reporting program.

- No other toxics reporting program requires data on chemical releases from all federal environmental laws:
  - Emergency Planning and Community Right-to-Know Act (EPCRA);
  - Clean Air Act (CAA);
  - Clean Water Act (CWA);
  - Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA);
  - Resource Conservation and Recovery Act (RCRA).
  - Hazardous chemicals covered by the Federal Fungicide, Insecticide and Rodenticide Act
- Toxics Reporting and Community Right to Know program does not duplicate other reporting that is required of industrial polluters. There is an immediate need for materials balancing reporting, because no other program – including the DEQ – requires a comprehensive assessment of environmental release to 10 different output Types as follows:
  1. Quantity **chemically altered** in the facility's processes;
  2. Quantity **shipped from** the facility in product;
  3. Quantity **transferred away** from the facility as **waste**;
  4. **Waste stored** at the facility at the end of the accounting period;
  5. Quantity emitted to the **air**;
  6. Quantity discharged into **publicly treated sewage**;
  7. Quantity released into **surface waters**;
  8. Quantity eliminated through **treatment at the facility**;
  9. Quantity eliminated through **energy recovery** at the facility;
  10. Quantity **disposed on-site**.
- The DEQ requires estimated emissions reporting for only 52 toxics released to air. HB 2669 will allow a city to collect data on over 1500 toxics chemicals that are released into the environment.
- HB 2669 will require materials balance reports to determine exact amounts of what is released to the air, water, soil, and environment of a community.

- **No other reporting program to the federal or state government is as comprehensive as the one proposed in HB 2669, nor does any other state program makes this data available directly to communities at no cost and without the obstacle of filing a public records request with a state agency.**
  - **Having a public access database serves to save money by releasing state agency from the costly and time-consuming burden of fulfilling multiple public records requests.**

*AOI Claim #3: Proponents of Community Right to Know are “vying to change important public process” such as demonstrating a need for the program.*

**Rebuttal:** Oregon’s air regulation system has repeatedly failed our communities. There has never been a clearer need for toxics reporting. Families are getting tested for toxic metals and finding cadmium and nickel in their children’s bloodstreams. If toxics reporting and emissions disclosure had already been in place, communities and regulators would have had early warnings about dangerous emissions of heavy metals from art glass manufacturers in Southeast Portland. Toxics reporting would have helped residents in South Corvallis find out that they were being exposed to extremely dangerous particle emissions and fluorides from a fiberglass manufacturer, because the polluter had gone far beyond what their permit allowed.

- **The ultimate discovery that a number of Oregon’s manufacturing facilities were not in compliance with DEQ issued air permits fully demonstrates the public’s need to have data and be able to exercise public oversight and involvement in air quality decisions. A local government is responsive to its constituents, and a local toxics program is for the benefit of local constituents and their elected officials.**

*AOI Claim #4: HB 2669 does not incorporate recommendations made to improve public access to toxics data made during the 1999 “agreement.”*

There was no shared “agreement.” The 1999 legislation introduced limitations on toxics reporting that favored industry. Recommendations were made only when the DEQ convened national and local toxics reporting experts to form the Oregon Toxics Reporting Advisory Group. **Their final report was presented to the 71<sup>st</sup> Oregon Legislature and the Governor.** The report recommended a number of opportunities to advance statewide goals for enhancing hazardous substance reporting in Oregon. Among the recommendations outlined in the Toxics Reporting and Materials Balancing Report are:

- a. Better quality data for agency decision-making;
- b. Integrated hazardous substance reporting;
- c. Comprehensive communications strategy, including complete accounting of all hazardous substances releases for the public;
- d. More reliable measures of facility environmental performance;
- e. Identification of pollution prevention opportunities within facilities;
- f. An emphasis on the value of chemical use data for consumers and workers as well as agencies focused on toxics use reduction activities;
- g. Materials balance recommended for facilities located in environmentally sensitive areas.

Toxics reporting and community involvement is an important and reliable measure of pollution reduction and public health benefits. **Yet, sadly, not one of the Advisory Group’s recommendations aimed at enhancing hazardous and toxic substance reporting has been implemented.**

In summary, the Oregon Department of Environmental Quality has inadequate resources to expand toxics reporting and set up continuous air monitoring in all communities. House Bill 2669 could make more efficient use of DEQ's scarce resources by helping the local governments and their constituent communities partner with the DEQ and OHA to identify and prioritize potential toxic air toxics hotspots or to determine cross-media hazardous releases.