



PUBLIC TESTIMONY

House Committee on Energy and Environment
HB 2269

March 27, 2017

Chair Helm and Members of the Committee:

Thank you for the opportunity for Associated Oregon Industries and Oregon Business Association to submit testimony on HB 2269 that proposes to significantly raise air permit fees for the purpose of creating a new, expanded, and damaging air quality program in the Oregon Department of Environmental Quality.

Associated Oregon Industries (AOI) and Oregon Business Association (OBA) collectively represent approximately 1,700 businesses that employ almost 250,000 Oregonians. These are businesses of all shapes and sizes throughout our state, including nearly 350 manufacturers employing 65,000 employees. Collectively, like all Oregonians, our members and their employees share the same values and goals – economic prosperity and environmental stewardship. We will continue to strive for policies that can meet both objectives.

Manufacturing is a critical sector of Oregon's economy and provides stability for many communities and families across the state. In 2015, manufacturing accounted for a quarter of Oregon's gross state product and Gross Domestic Product (GDP) from durable goods and manufacturing grew more in Oregon compared to the U.S. in every year but one from 2001 to 2015. Oregon's relative share of manufacturing employment is 20 percent greater than the nation's, and a higher than average percentage of that employment is in durable goods manufacturing (i.e., computer and electronic products, fabricated metals, wood products). And from 2010 to 2014, manufacturing jobs paid more than non-manufacturing jobs across all levels of educational attainment. And importantly, manufacturing employees were also more likely to have health benefits than non-manufacturing workers. In sum, a strong manufacturing sector is important to Oregon's economy, communities, and families.

HB 2269

Following news reports last year of troubling emissions from two Portland art glass manufacturers, the Governor directed the Department of Environmental

Quality (DEQ) and Oregon Health Authority (OHA) to “overhaul” industrial air emissions regulations – now called “Cleaner Air Oregon” (CAO). Both AOI and OBA participate on the CAO rules advisory committee. Most recently, that effort has resulted in a draft rule framework that would both significantly grow DEQ and threaten to shut down businesses that employ thousands of Oregonians. HB 2269 is the first step in doing both. For that reason, **WE OPPOSE HB 2269**.

More specifically, HB 2269 proposes to raise air permitting fees in a one-time assessment. Those fee increases amount to approximately 16%. As described to us, this one-time assessment is intended to “stand up” the new Cleaner Air Oregon regulatory program. Then in 2018, the agencies will come back to the Legislature and ask for additional resources to operate the new regulatory program. The proposed new program, as explained below, is more than just problematic, it is devastating to many Oregon businesses and communities.

Also worth noting, in addition to the one-time assessment HB 2269 also proposes increase fees on Title V permittees by 4% to cover a new community response program. All in all, looking at total fee increases included in the budget and in HB 2269 amounts to an approximate 20% fee increase to Title V fee payers and a 42% fee increase to Air Contaminate Discharge Permit (ACDP) holders, both raising millions.

We appreciate DEQ’s effort to work with our associations over the last seven months. The agency met with our associations and other stakeholders on issues outlined in this bill in an attempt to find a path forward on a number of issues in this bill. As a result, AOI and OBA do not oppose every aspect of this bill – only the fee increases currently set forth in Sections 1 and 2. In addition, we appreciate DEQ working with our members on Section 13 and now understand that Section 13 will be removed from the bill. However, on balance, the significant threat to our member’s businesses and manufacturing jobs, we are forced to oppose the bill before you.

Cleaner Air Oregon Framework

On March 21, DEQ and OHA released their proposed framework for air quality regulatory overhaul, the Cleaner Air Oregon program. Based on our early analysis of the framework, a rule based on DEQ and OHA’s proposal would not only expand the air quality program, but put significant new burdens on the state’s budget and threaten current and future manufacturing jobs.

More specifically, the framework proposes to place all the burden on industry when DEQ’s own two-year study concluded that industry is a minor source of air toxics. DEQ previously concluded that industrial emissions are not in the top six sources of air toxics in the Portland. The top six emissions sources include things like wood stove smoke, vehicles, and lawn and garden equipment.

Yet, the draft framework does not address any of the top six sources, only proposes to burden Portland and non-Portland manufacturers.

Oregon businesses continue to work hard and invest in hundreds of millions of dollars to reduce emissions, improve air quality, protect public health, meet stringent federal air quality standards and comply with state air pollution rules. **The framework would add extremely restrictive new standards without providing corresponding benefits to community health.**

In short, the draft framework would:

- Direct businesses to go through more red tape and an expensive air emissions evaluation process to determine additional new regulatory steps and mandates;
- Set new standards that many Oregon manufacturers cannot achieve. For instance, the program would impose standards that are roughly three times as stringent as the program in effect in the LA Basin (South Coast Air Quality Management District). The risk levels suggested are absurdly stringent;
- Cause facilities that have been the backbone of Oregon manufacturing to determine their fate using extremely conservative computer models and unrealistic exposure assumptions. For example, the South Coast Air Quality Management District (LA Basin) program on which this is based requires the assumption that people remain motionless for 30 years in a single spot. Other programs examined by DEQ requires the assumption that people remain motionless for 70 years;
- Ignore years of capital investments. Just in the last few years, Oregon businesses have spent hundreds of millions of dollars reducing air toxics as part of the stringent federal air toxics standards;
- Mandate that businesses meet emissions reduction plans, whether or not the facility either recently made capital investments or can even meet the over-conservative standards;
- Further delay permitting decisions. DEQ is already unable to meet its air permit backlog now resulting in permits being years out of date and not reflecting current standards. DEQ should focus on making its existing programs work before taking on new programs that will provide little benefit; and
- Punish facilities that, through state land use policy decisions, have been required to site near one another and/or are in locations that local governments have allowed neighborhoods to fill in around those facilities.

DEQ and OHA are seeking an unprecedented agency expansion to operate a new air program under their framework. Not only are the proposed standards in the framework roughly *three times stricter* than the most stringent

local program in the country – The South Coast Air Quality Management District¹ (SCAQMD) it would also significantly burden an already stressed state agency budget. For instance, the SCAQMD program costs more than \$300 million a year, and employs more than 800 – including 309 in its engineering and compliance division, 174 in science and technology advancement, and 109 in planning and rulemaking. Even implementing what appears to be a less burdensome regional California program would require a significant expansion on even Oregon’s statewide regulatory agency.

As you know, the Cleaner Air Oregon regulatory program was triggered by one unfortunate regulatory failure – DEQ’s failure to adequately regulate art glass manufacturers. **It was NOT caused by a lack of adequate regulations.** Since the incident DEQ has adopted special rules to cure its oversight. Nevertheless, DEQ and OHA both claim that there is a “gap” in current regulations. We do not believe this is accurate, or at the very least, that addressing the “gap” requires a complete regulatory overhaul. For instance, today DEQ has an air toxics program intended to set human health standards², address human health exposures from identified industrial emissions sources³, and reduce all air toxics, not just from stationary sources⁴. Creating a new program when the agency could not implement the state’s existing air toxics regulations and negatively impacting industrial permit holders that have invested hundreds-of-millions have to fulfill strict state and federal standards, is unjustified – especially since the state clearly knows industrial sources are far down the list of Oregon air toxic sources and already well regulated.

Oregon’s air quality regulations should be driven by science, not politics. It is disappointing that the state’s Air Toxics Science Advisory Committee has not been consulted on the proposed regulatory framework and recently proposed air emissions standards. The Environmental Quality Commission recognized the many scientific uncertainties associated with the effects of air toxics and continuing development of new information in this field so they adopted rules to create an Air Toxics Science Advisory Committee (ATSAC) to advise DEQ on technical issues and evaluation of Oregon’s Current Air Toxics Program⁵. Yet, since the art glass emissions issue last year, the DEQ has not convened the ATSAC to review the proposed framework or help advise the EQC on the agencies continued efforts to create new air emissions standards. The committee was created by the Environmental Quality Commission specifically to review ambient benchmarks for air toxics, advise the agency on developing a risk assessment methodology, and evaluate the state’s overall progress in reducing

¹ South Coast Air Quality Management District serves the densely urbanized and industrialized Southern California region.

² OAR 340-246-0090

³ OAR 340-246-0190

⁴ OAR 340-246-0130

⁵ OAR 340-246-0070

emissions and exposure to air toxics. Instead, DEQ and OHA staff have developed these new proposed stringent standards outside the view of the public and its appointed experts.

Our coalition believes Oregon can have both clean air and a healthy economy with fair and reasonable air regulations. To date, DEQ and OHA have failed to seriously consider – and even understand – the impacts a rule based on the draft framework will have on Oregon manufacturers of all types and sizes. Until the agencies can articulate, in detail, why this rule will not: (1) significantly grow the agencies budget and fee needs, (2) compromise manufacturing businesses, (3) unfairly burden manufacturing businesses with community-wide emissions sources, and (4) provide actual – not perceived health benefits, the legislature should say NO to fee increases to “stand-up” this program.

In the end, the business community will continue to strive for improving health of all Oregonians; however, we are concerned that neither the DEQ nor OHA fully understand or appreciate the likely impact of manufacturing job loss in the state due to implementing the recently released rule framework. As both Director Saxton and Director Whitman have previously stated, employment is an important – maybe the most important – predictor of human and community health. As we proceed with the rulemaking effort the constituents that we represent are concerned that the new regulatory program developed by the Department be fair, rational, science-based, practical and not ruinous to business in terms of fees or outcomes. Our businesses support a program that addresses real issues caused by a constituent’s facility. However, any program cannot undo decades of land use planning failures and no single facility should be expected to shoulder the burden of past state and local policy decisions. Nevertheless, that is what the agencies intend to do. Oregon deserves better.

We urge you to oppose HB 2269 until the fee increases to stand up this damaging program are removed from the bill.

Thank you for accepting our testimony.

Sincerely,

Associated Oregon Industries and Oregon Business Association