



TESTIMONY ON HB 2269
BEFORE THE JOINT WAYS AND MEANS COMMITTEE
SUBCOMMITTEE ON NATURAL RESOURCES



May 11, 2017

Co-Chairs Fredrick, Witt and Members of the Committee:

Thank you for the opportunity for Associated Oregon Industries (AOI) and Oregon Business Association (OBA) to submit testimony on HB 2269A 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.

AOI and OBA represent approximately 1,700 businesses that employ almost 250,000 Oregonian's. 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. In nearly every year from 2001 to 2015, manufacturing grew more in Oregon compared with the U.S. 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. Importantly, manufacturing employees also were more likely to have health benefits than non-manufacturing workers. In sum, a strong manufacturing sector is important to Oregon's economy, communities, families and health.

HB 2269A

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

2269A is the first step in doing both. For that reason, at this time **WE OPPOSE HB 2269A.**

More specifically, HB 2269A proposes to raise air permitting fees for Title V facilities in a one-time assessment. Those fee increases amount to approximately 16% (non-Title V fee increases are outlined in DEQ's budget request). 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 may be devastating to many Oregon businesses and communities.

Also, worth noting, in addition to the one-time assessment, HB 2269 proposes to increase fees on Title V permittees by 4% to cover a new community response program. All in all, total fee increases included in the budget and in HB 2269 amount to an approximately 20% fee increase to Title V fee payers (42% for Air Contaminant Discharge Permit holders).

We appreciate DEQ's effort to work with our associations over the past year. 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, including the underlying issues with the draft Cleaner Air Oregon framework. Some of those concerns were addressed in the House Energy and Environment Committee. And while we greatly appreciate the agency's willingness to meet with us and learn more about our concerns, we are not yet comfortable with the current direction of the rulemaking effort and are unable to support the current fees set forth in Sections 1, 2, and 2a in HB 2269A.

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 relatively minor source of air toxics. DEQ previously concluded that industrial emissions are not in the top six sources of air toxics in 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, but rather, only proposes to squarely burden manufacturers.

Oregon businesses continue to work hard and invest 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:

- Create a new air toxics program that would direct businesses to go through 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 you to assume that people remain motionless for 30 years in a single spot. Other programs examined by DEQ require you to assume people remain motionless for 70 years;
- Compromise the permitting of important public health and safety facilities, including hospitals, prisons, and any other facility that relies on back-up diesel generators.
- Jeopardize critical employers from communities that provide jobs, sponsor school and community programs, and support other local businesses.
- Ignore years of capital investments. Just in the past few years, Oregon businesses have spent hundreds of millions of dollars reducing air toxics as part of the stringent federal air toxics 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 must ensure that any new program will not cause further permitting delays and budget constraints for those able to comply with the program; and
- Punish facilities that, through state land use policy decisions, have been required to site near one another and/or are in locations where local governments have allowed neighborhoods to fill in around their 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

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

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 of Oregon’s *statewide* regulatory agency.

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 had little to no involvement in developing or consulting on the proposed regulatory framework. 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 Program.² Yet, since the art glass emissions issue last year, the DEQ did not convene the ATSAC for the purpose of reviewing the proposed framework to advise the EQC on the agencies continued efforts to create new air emissions standards. Then, in the midst of the rulemaking effort, a majority of the EQC committee members were fired with little explanation. The expert advisory board and now the rulemaking commission have had little to no involvement in the development of the agency rules.

We believe 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 – or at the very least acknowledge – 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.

Regulated employers in the state have long worked – and will continue to work – with the DEQ, OHA, and other stakeholders to develop air quality regulations that protect public health and can be implemented by businesses without overburdening the agency. Protecting the health and safety of our employees and communities is our priority as well as our responsibility.

However, we believe the recently proposed framework needs refinement. The 25-element framework would apply a new approach to regulating air toxics from manufacturing and commercial sources, including hospitals, gas stations and dry cleaners. Some aspects of the framework are reasonable. Others would significantly increase compliance costs for the regulated community and impose new burdens on DEQ without commensurate benefits in air quality or community health. Still other elements, such as the proposed requirement for a first of its

² OAR 340-246-0070

kind “community-wide assessments,” have not been sufficiently developed by the agencies to be part of the program at its inception. Understanding details within each element of the complex framework are critically important to implementing new rules, both for the agencies and for regulated community. Before the coalition can endorse the framework, the state must disclose more details about how the program would work. Unfortunately, some details already revealed would pose significant problems.

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. This program must work for communities and businesses. Nevertheless, this 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. Oregon deserves better.

Unless and until DEQ describes in detail how this program will work and why it will not compromise our important manufacturing base and communities that rely on these employers, we respectfully request that you **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