

February 12, 2018



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**Oregon Progressive Party
Position on Bill at 2018
Session of Oregon Legislature:**

HB 4002: Support

Dear Committee:

The Oregon Progressive Party supports this bill, which:

- Specifies that fee schedules required in ORS 468.025(2) include a fee that is reasonably calculated to cover the direct and indirect costs of the Department of Environmental Quality (DEQ) and the Environmental Quality Commission (Commission) to develop and implement a program and rules to reduce public health risks of toxic air contaminants from industrial and commercial sources.
- Requires fee to apply to any class of air contamination source required to obtain a permit under state air quality laws or subject to federal operating permit program and that fee be in addition to, not in lieu of, other air quality fees.
- Directs Commission to consider total fees for each air contamination source class before establishing fees.
- Requires fees be collected as part of fee for other permits.
- Requires any rule provisions related to late payments to be applied to fees authorized in this Act in same manner as other permit for late payment of specified fees.
- Authorizes DEQ to refuse to issue, suspend, revoke, or refuse to renew other specified air quality permits for late payment of fees authorized in this Act.

We support it for the reasons set forth in the attached report by several organizations.

Oregon Progressive Party

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Department of Environmental Quality Cleaner Air Oregon (CAO) Funding Request
(HB4002/[SB 1508](#))

Organizations in Support:

Neighbors for Clean Air (NCA), OPAL Environmental Justice, Beyond Toxics, Northwest Environmental Defense Center (NEDC), Oregon Environmental Council (OEC), Oregon Physicians for Social Responsibility (OPSR), Eastside Portland Air Coalition (EPAC), Oregon League of Conservation Voters (OLCV), Green Lents, Coalition of Communities of Color (CCC), Oregon Conservation Network (OCN), North Portland Air Quality Group, Verde/Living Cully, The League of Women Voters of Oregon (LWVOR), Northeast Coalition of Neighborhoods (NECN)

Background

In 2016, Governor Kate Brown responded quickly to the revelations about the public health risk of heavy metals like arsenic, cadmium, lead, chromium, nickel and manganese from industry found in moss samples taken across the Portland Metro region. Cleaner Air Oregon (CAO), under the governor's leadership, would target pollution that today is legal. Factories, chrome platers and other industrial sources of toxic air pollution are allowed to emit heavy metals, solvents and other cancer-causing chemicals into the air even if the emissions threaten neighbors' health. California and Washington have both moved to address the issue.

After two years of research and rulemaking, CAO stands as a transformative program that would fundamentally shift Oregon's industry air permit regulations from technology based to health-based rules. Oregon Department of Environmental Quality (DEQ) and Oregon Health Authority (OHA) staff brought visionary ideas to the table, and advocates were confident that Oregon could indeed embark on an innovative effort to clean up our air. The program rules, as released for public comment in Fall 2017, stopped short of the promised ambitious, nation leading strong health standards, to one that more closely mirrors existing programs from other states found to be both effective and feasible. None-the-less, CAO's increased emphasis on higher quality information through more complete emissions reporting, better understanding of risk exposure experienced by those living in close proximity to one or multiple industry facilities, and finally a more authentic community engagement strategy to address concerns and provide stronger pathways to resolving and mitigating risk, can all be heralded as vast improvements and progress in the work to establish a more health protective program.

Hearings:

[Senate Committee on Environment and Natural Resources](#)

Monday, February 12, 3:00pm, Hearing Room C

[House Committee on Energy and Environment](#)

Monday, February 12, 3:00pm, Hearing Room F

We encourage everyone to submit written testimony to the committees preferably by 8:00 AM on day of hearing:

Senate: senr.exhibits@oregonlegislature.gov

House: hee.exhibits@oregonlegislature.gov

1. Funding is critical and urgent - if the legislature doesn't fund CAO in 2018 - the program does not get implemented, full stop.
2. SOS audit affirms that DEQ is under resourced - (its important however to note that out of the "200" unfilled positions at the agency, only 7 are in the air program).
3. CAO is not a "huge new program" but a means for DEQ to implement its existing program more effectively.
4. The nearly two-year process, since Governor Brown called for the establishment of CAO in Spring 2016, while it moved forward expeditiously, was incredibly inclusive of all stakeholders. Industry was actively engaged and involved throughout the whole time.
5. This program is good for businesses and the public: by establishing permit conditions based on human health, it will provide more assurance to appease public anxiety, and it provides a more predictable and consistent method of applying those standards for industry.
6. The fees are nominal and reflect a consistency with programs across the country, to bring Oregon more in-line with other effective air toxics programs.
7. Getting CAO off the ground, is a key priority of the Governor's office and House leadership

Current predictable arguments (MYTHS) against:

1. SOS audit shows DEQ can't deliver on its most basic responsibilities - there is a huge backlog of air permits, is this the time to add a whole new big program?

CAO is not a "huge new program" but a means for DEQ to implement its existing program more effectively.

Also, some of current backlog can be attributed to intentional waiting to not move forward permits that might then have to be revised with the new CAO program.

Also, backlog is currently due to the fact that currently permit writers get pulled off their permit duties to be part of crisis response when there is a big public health concern such as Bullseye, Intel etc. This funding will provide the staffing the agency needs to have the right people available to respond better, so that permit writers aren't expected to do double - conflicting duties as overseeing permit process for a facility and being the lead investigator.

2. Industry wasn't adequately engaged in process. This huge program was rushed and the comment period does not allow enough time for industry to give adequate feedback.

Industry had broad representation in the process, and on the rulemaking advisory committee: AOI, large businesses, small businesses and significant other access to staff and decision makers. Companies like ESCO and Vigor had enough information by last summer to begin to evaluate the impact of the program and what it would take for their individual facilities to comply.

3. This is extreme and far-reaching - going well beyond anything else in the country.

While the governor promised that CAO would deliver the most health protective air program in the nation, public health and community advocates are disappointed that in fact this program doesn't go far enough to establish the nation's first enforceable industry air permit standards based on human health risk. However, it does bring Oregon inline and closer to standards that have already been widely implemented, found to be both technically and fiscally achievable, in some cases for nearly a decade, in states like Washington, Minnesota, Kentucky and California. In fact, Vigor Industrial already has nearly identical compliance requirements for facilities it operates in Washington State.