

TESTIMONY

SENATE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE

Monday, February 12, 2018

3:00pm

Support SB 1541 Clean Air Standards Bill

Chair Dembrow, Vice Chair Olsen and Members of the Committee:

Thank you for the opportunity for Allegheny Technologies Incorporated to testify on SB 1541 and SB 1508. ATI supports SB 1541 and with its passage, makes SB 1508 unnecessary. Please vote YES on SB 1541.

Allegheny Technologies Incorporated (ATI) is a global manufacturer of technologically advanced specialty materials and complex components. Our four Oregon facilities employ nearly 1,600 Oregonians at family-sustaining wages and benefits. These employees make important products critical to our nation's defense, healthcare, aerospace and energy industries. Together, our business is an important partner in the community, spending millions of dollars annually on goods and services with Oregon-based businesses.

It is ATI's policy to maintain and operate all its businesses in compliance with applicable laws, regulations, permits and other requirements. ATI continues to make critical investments to reduce and prevent air pollution, protect public health and the health of all who work and live in the communities in which we reside so that we can continue manufacturing products that protect lives and improve our future.

As part of this testimony, we have attached our comments to the Department of Environmental Quality's (DEQ) proposed Cleaner Air Oregon Rule. Those comments articulate some specific concerns that our business has with DEQ's proposal. To summarize our comments, the proposed rules would place unnecessary regulatory burdens on businesses like ours and make Oregon an increasingly difficult place for manufacturers to remain competitive in a global market.

There is no question that air quality regulations and public health policy are incredibly complex. That is no exception here. However, these complexities can be boiled down into a series of policy choices which are before you in SB 1541. We believe, these policy choices are best made by Oregon's elected officials.

Importantly, we believe Oregon should design and adopt a mainstream program – one that allows Oregon manufacturers to remain competitive on a national and global scale. Notwithstanding industry's relatively small contribution to air pollution, DEQ has proposed a program that would place Oregon manufacturers at a competitive disadvantage with its national and international competitors – including the few that have air toxics programs - by imposing emissions thresholds many times more stringent than similar programs in other states. Oregon DEQ has been quick to point out that their risk thresholds are similar to others on the west coast.

However, this is not entirely accurate. For example, DEQ has created an air toxics regulatory program most similar to the Southern California program whose thresholds are 25 in a million for cancer risk and a hazard index of 3 for noncancer risk, whereas Oregon's is set at 25 and 1 respectively. Many other areas in California have set their risk thresholds much higher. Over half of the California air districts have thresholds which are 100 in a million for cancer and a hazard index of 10 for noncancer risk. Those risk thresholds are what is proposed in SB 1541. DEQ has also alleged that their proposed program is similar to Washington State's program. Again, digging into the details, Oregon's is far more stringent. In fact, Washington does not try to impose their program on existing sources, but rather limits it to new or modified sources. Thus, making it easier to design and engineer for additional pollution control equipment.

Not only is DEQ's proposed rule going to be problematic for manufacturers, it will likely be a huge burden on the agency. DEQ is potentially trying to adopt a program bigger than it is prepared to manage. In a recent Secretary of State Audit, the audit states that the agency lacks "consistent guidance and support for staff" which slows the permitting process as air quality rules are getting more complex.¹ To help permit writers understand these increasingly complex laws and regulations, one recommendation in 2012 was to update the air quality permit writers' manual, which has not been updated since its original draft, in 1993. This recommendation still has not been addressed." Now the agency is proposing new, more complex regulations without a clear plan of how it can meet existing needs, let alone implement this new, complex program.

We cannot stress enough, that having good, workable regulatory programs with predictable and timely permitting processes is good for business and the public. The public must have confidence in the programs that ensure businesses are doing their part in protecting the environment. And business needs efficient regulatory processes that provide consistency and certainty to ensure the investments meet the public goals. This must be part of the discussion before the agency takes on a program of this size and magnitude. Simply giving the agency more money without proper regulatory sideboards will not cure the problems for either business or the agency. For that reason, please oppose SB 1508.

With all of the problems identified above, we strongly believe there is an opportunity to create an air quality regulatory program that works for business, communities and employees. SB 1541 provides a reasonable approach to ensuring Oregon industries and operations are protective of public health. There is nothing more valuable to our company than our employees and communities. In addition, DEQ already struggles to achieve its current goals and therefore, an honest conversation about funding for this program must occur. SB 1541 would be a significant improvement on both fronts.

For instance, SB 1541 establishes a thoughtful and attainable health-based program requiring businesses to take action if their operations pose an unreasonable risk to their communities. In addition, the bill sets new, aggressive health-based benchmarks to protect public health. These are health standards that are supported by federal and state science and comparable air toxics programs nationwide. And importantly, SB 1541 provides businesses and the DEQ certainty in

¹ Oregon Secretary of State Audit Report, Department of Environmental Quality Should Improve the Air Quality Permitting Process to Reduce Its Backlog and Better Safeguard Oregon's Air, pg 21. (<http://sos.oregon.gov/audits/Documents/2018-01.pdf>)

how to reduce risk in a manner that supports community and employee concerns and will improve community access to good information and timely results. Lastly, it provides DEQ needed resources to strengthen its air programs that will help them accomplish their mission of restoring, maintaining and enhancing the quality of Oregon's air, land and water. SB 1541 is a bill that has something for everyone.

Again, thank you for holding a hearing on this important matter. **We urge you to support the legislative compromise in SB 1541** this session and **oppose SB 1508** which does not provide certainty and predictability to businesses like ours. The agency, business, and communities cannot wait.

A handwritten signature in black ink, appearing to read 'Lee Weber', with a stylized, cursive style.

Lee Weber
President
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January 22, 2018

VIA EMAIL & ONLINE SUBMITTAL

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<http://www.oregon.gov/deq/Regulations/rulemaking/Pages/Ccleanerair2017.aspx>

Re: Comments on Proposed Cleaner Air Oregon Rules

Dear Mr. Westersund:

Allegheny Technologies Incorporated (ATI) is a global manufacturer of technically advanced specialty materials and complex components. Our products support diverse markets and industries such as aerospace and defense, oil & gas, electrical energy, medical, automotive, and other industrial markets. With four facilities in Oregon, ATI employs nearly 1,600 Oregonians at family-sustaining wages and benefits. Our employees make important products critical to our nation's defense, healthcare, aerospace and energy industries. Our Oregon facilities spend millions of dollars annually on goods and services from Oregon-based businesses.

It is ATI's policy to maintain and operate all its businesses in compliance with applicable laws, regulations, permits and other requirements. ATI continues to make critical investments to reduce and prevent air pollution, protect public health and the health of all who work and live in the communities in which we reside so that we can continue manufacturing products that protect lives and improve our future.

We submit these comments on the Department's proposed Cleaner Air Oregon rules.

- DEQ should be cautious about taking on too much, too fast. We truly respect the DEQ staff who work hard to keep the air permitting program functioning. We are concerned that DEQ already struggles to keep up with the work load they currently have. The Cleaner Air Rules are likely to add more significant permitting delays and may constrain our ability to modify and improve our facilities to succeed in the highly-competitive, time-critical global market for our products.
- The proposed rules are overly conservative and costly. ATI has facilities in 13 other U.S. states. DEQ's air toxics program, as proposed, will be more stringent, burdensome and expensive than any of the other states in which we have operations.

- The rules, as proposed, may not result in the intended impact of improving public health in our communities. The rules, as proposed, would, however, serve to mislead and confuse the public about the nature and degree of risk presented by Oregon manufacturing facilities. The Department should not require subject facilities to model hypothetical (potential) emissions or impacts at hypothetical locations where no person is residing (such as locations “documented as planned to be zoned” residential). DEQ should revise the proposed rules to solely address actual source and to assess impacts where people actually reside.
- The Department has not considered the comprehensive economic impacts of this rulemaking. The costly and additional fees that are proposed are just one of the economic impacts to be considered. The Department needs to take into account the full cost of the rules, including source costs (e.g., conducting emissions inventories, testing, modeling, installing controls, and preparing communication plans) as well as costs to community health (e.g., diminished employment).
- The proposed Risk Action Levels (RALs) are unnecessarily conservative. The proposed rules should go further to distinguish between existing sources and new/reconstructed sources. In particular, the RALs for existing sources should be significantly revised. The existing source RALs should be no more stringent than 100 in 1 million excess lifetime cancer risk and a Hazard Index of 10. The RALs as proposed put Oregon manufacturers at a competitive disadvantage compared to neighboring states.
- The Department’s preference for modeling (estimating) potential air emissions over actual ambient air monitoring is misplaced. Facilities should be encouraged to use air monitoring as an alternative to modeling. The proposed rules discourage monitoring by including too much process around monitoring projects and by requiring sources to first complete assessments based on modeling.

We also join in the comments submitted by other commenters who more specifically and thoroughly explain the errors in setting various proposed TRVs and RBCs. We are concerned that the proposed TRVs and RBCs have not received adequate scientific scrutiny. We urge DEQ to engage the Air Toxics Science Advisory Committee to assess each of the TRV and RBC values being proposed before finalizing the values. We also note that the TRVs assigned to many metals are specific to metal forms that may not actually be emitted by Oregon facilities. A facility subject to the proposed rules should be given the opportunity to demonstrate that the metal compound that is the basis for the underlying TRV is not the form emitted by the facility. Upon making that showing, the facility should not have to complete further assessment of that compound.

Reiterating the often-said comments, the DEQ needs to slow down and take into consideration the impact that these rules would have on existing and new manufacturing in the State. We implore you to take the comments from all manufacturers and manufacturing coalitions into account in a substantive way before proceeding.

Sincerely,



Lauren S. McAndrews