

Testimony
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Cleaner Air Oregon Advisory Committee

Submitted to
Senator Dembrow, Chair
Environment and Natural Resources Committee
Representative Helm, Chair
House Energy and Environment Committee

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Governor Kate Brown launched the Cleaner Air Oregon initiative on April 6, 2016. The primary purpose of the initiative is to reform Oregon's air toxics rules for industrial stationary sources. To better align the rules with public health considerations, the Governor called on both the Oregon Department of Environmental Quality ("DEQ") and the Oregon Health Authority ("OHA") to work together in an iterative process with a broad group of stakeholders to draft rules for adoption by the Environmental Quality Commission ("EQC") of Oregon.

In April 2016, the EQC met to consider a temporary rule for art glass manufacturers and receive briefings on California and Washington's industrial air toxics programs and current air quality regulation in Oregon.

In May and June 2016, DEQ, OHA, and the U.S. Environmental Protection Agency ("EPA") presented public, interactive webinars about air toxic regulation in Oregon, the rulemaking process, and California and Washington's approaches to industrial air toxics rules.

In June and July of 2016, a Technical Work Group comprised of an appointed group of experts from the regulatory agencies and the private sector worked through the science and technical aspects of the rulemaking, including the complexities of risk assessment. The Technical Work Group addressed five program elements including: (1) applicability; (2) pollutant scope and setting concentration levels; (3) screening and risk assessment; (4) setting and administering acceptable risk levels, and (5) implementing the program. It evaluated and compared the state and local air toxics permitting programs in six states other than Oregon to Oregon's program. The *Final Report on the Technical Workgroup* was published in August 2016.

In September and October of 2016, DEQ and OHA conducted policy forums around the state at four urban and rural locations where they presented policy topics for discussion and comment. Comments and information presented and received together with the Final Technical Report were presented to an advisory committee.

A key part of the unprecedented joint effort by DEQ and OHA, was the convening of a 23-member Advisory Committee to discuss and give input on specific policy choices related to the reform of industrial air toxics regulations. The Advisory Committee was comprised of

representatives from regulated industries, neighborhoods, counties, environmental justice advocates, unions, small business owners, academics, physicians, local health officials, large and small business associations, environmental groups, and large and small cities. The Committee was co-chaired by Ms. Jackie Dingfelder and Ms. Claudia Powers.

Under the terms of the *Cleaner Air Oregon Regulatory Reform Advisory Committee Charter*, the Advisory Committee held seven, day-long meetings beginning in October 2016 and ending in August 2017. The work was intense. At each meeting, the Advisory Committee was presented with an agenda and worked through an agency presentation based on a series of discussion papers prepared by DEQ and OHA that were generally issued via the Cleaner Air Oregon webpage two weeks prior to the meeting date. For example, at the first meeting, the Advisory Committee was given presentations on air quality and toxicology basics and the rulemaking timeline; an overview of the health risk-based industrial air toxic permitting program general framework from other states; environmental justice considerations and public health significance; applicability of air toxics permitting programs; the range of air pollutants included in air toxics programs; and setting risk-based concentrations. As in each Advisory Committee meeting, public comment was received from members of the public who attended the meetings. Comments from the Advisory Committee members regarding the subjects addressed at the meetings were encouraged and accepted within two weeks of each meeting. All comments were circulated to Committee members and the public on the Cleaner Air Oregon and DEQ rules webpages.

OHA and DEQ identified six main topic areas with related program elements (25 program elements in all) for consideration by the Advisory Committee with the program elements described in each discussion paper (thousands of pages of information in total) with placeholders for the Advisory Committee to add topics during the course of their discussions. The main topics included: (1) Applicability; (2) Pollutant Scope and Setting Concentration Levels; (3) Setting and Administering Risk Triggers; (4) Cumulative Risks and Background; (5) Screening and Risk Assessment; and (6) Implementation. Environmental justice was addressed in the relevant sections of elements 4 through 6.

At each of the seven meetings, the final meeting lasting a day and a half, all prior comments, summaries of the previous meetings, and agency responses to comments were included in the agenda. The Advisory Committee members and agency staff worked tenaciously. Members of the Committee brought skill, knowledge, perspective, and the results of impressive homework to each meeting. The process was thorough, informed, and transparent.

The Advisory Committee members represented a broad range of opinion on nearly every program element discussed. Consensus was not a requirement nor a goal of the Committee. Although Committee members would find themselves at opposite ends of a discussion, the Committee conducted itself with respect and courtesy for the sometimes widely differing points of view. In the end, it is not unforeseeable that stakeholders may find themselves in disagreement with the final draft rules or that no one may be completely in accord with the outcome. But it is very unlikely that any of the members of the Advisory Committee or of the public who participated in the process can, in fairness, argue with the complexity of the task, the intensity of the workload, the inclusiveness of the participants, the comprehensiveness of the effort, and the transparency of the initiative.

Given the intricacy and technicality of developing these air quality regulations, we were impressed with the level of public involvement and engagement in this rule making. As you can see, this rulemaking process involved an unprecedented level of engagement across Oregon. No rules are perfect, and we anticipate and expect that the agencies will carefully consider all the comments they have received and make meaningful changes to the rules for adoption. Overall, the draft rules attempt to achieve a thoughtful balancing of health-based information, community concerns, and economic considerations.

Finally, it is important to note that the Advisory Committee also spent time discussing options regarding funding for program implementation. In order to ensure that the program is implemented in a timely manner, the Committee understood that fees would provide part of the necessary funds to support the effort, and would, therefore, be required.

Thank you for inviting us before the committee today. We appreciate your attention to this important matter.

