



Oppose HB 3372-A Unless Amended

Our coalition of 11 organizations represents hundreds of Oregon companies for whom Department of Environmental Quality permits are essential to carrying out day-to-day business operations. We have significant concerns with the expanded authority provided by HB 3372-A to deny, revoke, suspend or modify Department of Environmental Quality permits and we oppose the bill in its current form.

Every day, our members diligently work to implement the terms of their DEQ permits that protect human health and the environment for all Oregonians. Regrettably, that is not the case for all businesses and we need strong laws that address businesses with significant compliance issues that are not carefully implementing their permits. The intent of HB 3372-A is to hold businesses accountable by taking the highly unusual action of refusing to issue or revoking a permit when a pattern is established of serious permit violations and inadequate action taken by the business to rectify problems.

Unfortunately, as written, the bill will have unintended consequences for Oregon businesses when minor noncompliance events arise for conscientious businesses doing their best to meet the terms of complex permits. Although several important improvements were made to the bill in the House, the denial or revocation of a permit is a *business killing action* and it is critical that the scope of the bill be limited to ensure that it does not inadvertently target businesses that are working hard to implement the extremely complex terms of their permits. This is particularly critical to Oregon's small businesses, many of whom do not have environmental compliance specialists on staff and are simply doing their best to meet the terms and conditions of complex permits, but may have some minor compliance challenges along the way.

The bill should:

- Establish clear standards to determine when a permit holder or applicant would face increased scrutiny from DEQ. As currently drafted, the agency would have broad, subjective discretion to investigate permit holders in the absence of clear triggers.
- More narrowly focus on compliance history that is most relevant as to whether the permit holder can and will comply with a permit going forward. A business's most recent permit will be the most stringent and good compliance history with respect to a current permit is the best indicator of an ability and willingness to comply.

- Further clarify that the enhanced authority to evaluate businesses with common owners or board members only apply to those persons who engage in day-to-day decisions about the business's compliance with the effective compliance requirements. Additionally, the problematic compliance history of one facility should not reflect on another facility simply because they share common owners or board members. Compliance circumstances are site specific and should be evaluated as such.
- Provide a reasonable and fair process for appealing the denial or revocation of a permit. Decisions under this bill should be reviewable for abuse of discretion and should not be arbitrary or capricious.
- In addition to a refusal to issue a permit, require that a DEQ action to revoke, modify or suspend a permit be a DEQ director-level decision.

The implementation of permits is a complex and costly process that requires constant vigilance by a business to ensure that permit requirements are correctly carried out. In many cases, Oregon statutes and regulations are more stringent than federal requirements, which places additional compliance pressures on businesses that may have hundreds or even thousands of points of regulation in their permits.

We urge the Committee to thoughtfully examine these issues to avoid unintended consequences to those working in good faith to comply with their permits.