



**Eastside
Portland
Air Coalition**



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VIA ELECTRONIC MAIL

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***Re: Comments on Proposed Air Toxics Alignment Rulemaking as Presented at
Cleaner Air Oregon Rules Advisory Committee Meetings on February 2 and 5th, 2021.***

Dear Director Whitman and DEQ CAO staff,

Thank you for the opportunity to participate in the Cleaner Air Oregon and Air Toxics Program Alignment Rulemaking. Overall, we are impressed with the work on CAO and look forward to meaningful implementation and enforcement that spares people from being poisoned in their own neighborhoods and places of work and play. The public needs to know when there will be a “hard stop” to a facility’s emissions.

We found this second set of meetings as a deeper dive into the same issues that were discussed on November 10 and 17th, 2020 meetings, so many of our comments will overlap with comments submitted from that set of meetings.

Our main concerns are:

- 1) **Immediate curtailment** needs to mean immediate curtailment. Either your words need to change or they actually need to mean what they imply. The public wants to know if they are breathing poisons at levels so dangerous they are impeding health than the public wants to know what is being done about it- now. DEQ does not allow vehicles to operate without DEQ certification as to their emissions, why are you allowing industry to continue to pollute knowing that they are harming people’s health?
- 2) **Immediate curtailment must also consider other environmental factors** such as forest fires, chemical spills, and other unforetold events including meteorological

events such as inversions. Facilities must live within context of all factors. They do not exist in isolation, but in a larger world.

- 3) **New Source** is new if operations are changed or a new facility or space is acquired. Getting more facilities in a new source categorization ensures that public health is being protected. As written, the existing source rules are NOT health protective and far exceed cancer limits and hazard index (non cancer) limits for health safety.
- 4) **Clarify the role a new SIC code means at an existing facility.** For example, a sawmill that adds a biomass plant. This would then be a new facility?
- 5) **Timeline extensions for EI and Risk Reduction Strategies-** the public needs to know why these have been extended, how many have been extended, and ultimate timeline. As it stands the worst polluter just got permission to pollute even more. This flies in the face of health protection.
- 6) **Real emissions data-** No facility should be able to substitute emissions data from other facilities as any part of their CAO data record. If a facility doesn't have emissions data they are responsible for providing verifiable source testing on their own dime but from a verified neutral source or pay DEQ to do it.
- 7) **ATSAC-** Members must have expertise in toxicity assessments and human health, and not in risk assessment. There should be no conflict of interest on the advisory panel and not include members of the business community or their risk assessors. Keep the focus on health and risk to health. To that end, we need a review body for over 250 chemicals at least and we need experts in the following areas:
Epidemiology, Toxicology, Neonatal/Children's health specialists and experts.
- 8) **Proxy chemicals-** Is there a way for DEQ/OHA/ATSAC to be on the lookout for proxy chemicals, or chemicals that facilities swap out for similar regulated ones so they can skirt regulation? There are chemicals being used, that are not in the emissions inventory and not on any lists, and therefore not regulated. This is a major loophole for industry.
- 9) **Acute exposures-** Where is the safety net? Where is the "hard stop" or true "immediate curtailment". Does and will the agency use their authority to protect the public from acute and sudden exposures?
- 10) The focus needs to be on health to communities exposed, and putting the poorest, most at risk communities first, as a priority, will create safe air everywhere.
Community outreach should focus on health impacts. **WHERE IS OHA? OHA needs to be front and central.**
- 11) **A 'pollution dashboard'** for communities should be a priority. Transparency about what people are breathing and the effects on health is essential and what all of this is about. It will then encourage and motivate people to become engaged if they understand in clear, layperson's terms what they are breathing.
- 12) **Aggregated Toxic Emissions Units (TEU's)** should most definitely be calculated and accounted for when determining risk levels. This seems to be essential since you are tracking the community risk and not just the facility when regulations weigh towards the health of the community and total exposures. The difference is we have

health based regulations and not technology based regulations. Without accounting for TEU's it is not clear that you are using a health based strategy for reducing risk in communities.

- 13) **POLLUTER PAYS** does not mean industry gets to write their own rules and measure their pollution without oversight, just because they pay to have it measured. It means, by definition, they bear the cost of their own mitigation and pollution and pay the social cost of their activities. The Precautionary Principle reminds us to keep the burden on the industry to prove they are safe, not on the public to prove they have been harmed.

Thank you for the opportunity to participate in the Cleaner Air Oregon rules advisory committee and look forward to DEQ being brave and enforcing the rules with immediate real curtailment and to protecting the public health, with transparency all along the way.

Jessica Applegate, Katharine Salzman- Eastside Portland Air Coalition

Lisa Arkin- Beyond Toxics

Greg Sotir- Cully Air Action Team