



**LEAGUE OF WOMEN VOTERS®
OF OREGON**

The League of Women Voters of Oregon is a 97-year-old grassroots nonpartisan political organization that encourages informed and active participation in government. We envision informed Oregonians participating in a fully accessible, responsive, and transparent government to achieve the common good. LWVOR Legislative Action is based on advocacy positions formed through studies and member consensus. The League never supports or opposes any candidate or political party.

April 2, 2017

To: Jacqueline Dingfelder and Claudia Powers,
Co-Chairs, Cleaner Air Oregon Rulemaking Advisory Committee
Email: cleanerair@deq.state.or.us

Re: Comments on Draft Proposed Framework for CAO Health-Risk Based Permitting Program

The League of Women Voters of Oregon (LWVOR) adopted positions on air quality in 1968. LWVOR supports regulation and reduction of pollution from stationary sources and from ambient toxic-air pollutants. We support the right of states to set more stringent standards than the federal government.

LWVOR commends the Oregon Health Authority (OHA) and the Department of Environmental Quality (DEQ) for producing an excellent Draft Framework within its anticipated timeline. The document lays out a robust program that, if carried out, will improve the health of Oregonians now living and working under the cloud of air pollution. It will also improve the health of workers in affected industries and, in the long run, should improve the bottom line of facility owners--a win-win for all.

If air emission limits are regulated for health, if environmental justice (EJ) concerns are incorporated, and if Pollution Prevention (P2) programs are instituted statewide, less air pollution means better health for the general population and for workers, so medical and materials costs should decrease for businesses.

LWVOR believes that this Draft could be greatly improved by elevating the EJ section from the bottom to the top of the document and by also inserting a framework P2 Program at the top. Language must be added to the document so that it is understood that EJ and P2 concerns permeate with authority all regulatory aspects of the document. We assume that most companies may not be familiar with either concept, so it is important that OHA and DEQ lead the way. Oregon has an EJ committee and White Paper. CAO staff and many of you have heard the presentation on P2 by Marjorie MartzEmerson, CAO Technical Advisory Workgroup member, so you have a great start.

Our attached comments center mainly on EJ and P2. We agree with most of your proposed framework, including sections 5, 6, 11 and 21. We have provided comments under other sections. **We disagree only with your Implementation Phasing assessment, Section 20.** We believe facilities located in or near EJ communities should fall under the new rules as soon as possible and not wait for permit renewal. These include, but are not limited to, Air Contaminant Discharge Permit and Title V Permit holders. Please consider using a four-year phase in for existing sources, starting with the highest emitters first. It is not clear what facilities might fall into the category you discussed in section 20: "separate air toxics permits not initially tied to current ACDP's or Title V permits."

We also ask in Section 10 that areas in non-attainment be brought into the discussion. Our other comments are intended to add important ideas that have already surfaced, but are not included in the Draft, perhaps for space reasons.

Thank you for the opportunity to discuss this important draft framework.



Norman Turrill
LWVOR President



Marilyn T. Koenitzer
LWVOR Air Quality Portfolio

*Applicability***1: Inclusion of existing sources in program**

LWVOR agrees with your inclusions, and would add an Environmental Justice (EJ) lens to their permitting process. If that lens shows an EJ concern, it would trigger prompt review of existing permits. Otherwise, existing facilities would come under the new regulations as their permits come up for renewal. Including them in the program addresses the mission of this program: to protect the public's health.

2: Regulation of individual pieces of equipment in a facility and/or the whole facility.

LWVOR agrees with your proposed limits on whole facilities and new units. You could add Pollution Prevention programs such as the one advocated by Marjorie MartzEmerson, CAO Technical Advisory Workgroup member, of Pacific Northwest Pollution Prevention Resource Center.

Regulating the whole facility should focus attention on the cumulative and synergistic effects of facility-wide pollutants.

3: Categorical exemptions

LWVOR is not yet familiar with the Title V categorical exemptions list, so we are not commenting on this today.

Pollutant Scope and Setting Concentration Levels**4: Air Toxics included in the program**

Reporting: LWVOR agrees that the 660 list of toxics is adequate for now.

Have you included flexibility so that new compounds can easily be added?

Will DEQ have funding to verify the annual emissions reports of permitted facilities?

Permitting: If only a subset of the reporting list would be regulated—approximately 215 pollutants that have health risk-based concentrations—will the remainder be unregulated?

7: Risk based concentration averaging times

At the time of this writing, LWVOR awaits information to comment upon for the chronic and acute averaging times.

8: Cumulative risk from multiple air toxics from a single facility

LWVOR agrees with your assessment, and requests that you add a statement about EJ concerns and how they will be addressed in this case. We also request that you add modeling to the summation, as is done in other states. Modeling is a necessary tool. Both actions may be necessary to ascertain effects on local populations.

9: Cumulative risk from multiple facilities in an area

LWVOR agrees with your assessment. We understood from listening to Director Whitman at the legislative hearing on March 27 for HB 2236 that the cumulative risk would be assessed for companies near one another.

10: Use of Background concentrations in the Assessment of Risk

LWVOR suggests that areas of non-attainment and those with EJ concerns be brought into this section with more authoritarian language. This section does not mention areas in non-attainment. EJ concerns are mentioned with a "could." We believe that more health-protective verbs such as "shall" and "will" should be inserted when regulating for background concentrations in non-attainment and EJ areas.

12: Past exposure to air toxics

LWVOR agrees with your assessment IF EJ concerns have been addressed in these decisions.

Allowable risk levels**13: Risk level for individual pollutants for setting RBC's**

LWVOR agrees that 1 in 1 million cancer risk and hazard quotient of one for non-cancer risk are acceptable as good initial screen levels. Other factors may need to be assessed, such as cumulative effects, more information about new toxicity levels, EJ concerns.

14 and 15:

LWVOR is pleased that you are including existing and new in your umbrella of regulations.

LWVOR asks the origin of this chart data?

How do the 1 or 10 or 80 in 1 million equate to tons of pollution?

We hope that this assessment is the most conservative in the country and the standards most stringent. SCAQMD just revised their guidance, which now says a cancer risk study is required to look at as short a period as six months, potentially as short as two months, based on cancer risks for the third trimester. The technical advisors also said to use the best, newest scientific data from several sources, not the ones written by industry to determine risk and set limits.

If the new facilities are properly located in an industrial zone away from residential and commercial areas, these levels may be appropriate. EJ concerns should be brought into play here to assure no deleterious health effects will occur. Pollution prevention programs should be in effect system-wide.

Screening and Risk Assessment**16: Setting and using de minimis emission rates**

LWVOR agrees with your assessment. This may help to alleviate an Oregon problem of many stacks at one facility each emitting a de minimis amount of a hazardous air pollutant so that the sum is not regulated.

17, 18 and 19:

LWVOR agrees with your assessments and adds cumulative risk from nearby industrial sources to this section. With 19, monitoring may be necessary if the location of the facility is near and EJ community.

Implementation**20: Phasing**

LWVOR disagrees with your assessment. We believe facilities located in or near EJ communities should fall under the new rules as soon as possible, and not wait for permit renewal. These include, but are not limited to Air Contaminant Discharge Permit and Title V Permit holders. You can use a four-year phase in for existing sources, starting with the highest emitters first. It is not clear what facilities might fall into the category you discussed in section 20: "separate air toxics permits not initially tied to current ACDP's or Title V permits." We are pleased that you have started your emissions inventory.

22: Community Engagement

LWVOR believes your community engagement program is a good start. If the Legislature passes either HB2269 or SB995, the Toxics Right to Know legislation, the information collected through either program will be helpful to the DEQ and the public. The materials balancing information will be useful to you as enforcers. It may be that, as the new rules get underway, the community engagement program will need to be expanded. We hope not. We hope that pollution will not be harmful to people beyond the facilities' fence lines with the new regulations.

23: Compliance

LWVOR believes this is an excellent, much needed section. We suggest adding materials balancing and pollution prevention results to your list of permit requirements.

24: Capacity – regulatory costs and fee structure

LWVOR agrees with your recommendations for fees to cover costs of the CAO program. We recommend that you ask for enough fees to cover past systematic underfunding of DEQ such that lack of permit writing, inspections and enforcement does not occur in the future.

25: Evaluation

LWVOR believes one of the best methods of evaluation may be verification of materials balancing data submitted by the industries. Oregon has cases where reported emissions have been deliberately low because the companies were not required to do periodic emissions testing and reports of emissions were not verified. We hope those days are over.

We agree that pollution prevention efforts should be instituted state-wide and the progress reported. Those efforts will have beneficial effects for the companies, their neighbors and the environment.