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CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

HOUSE NATURAL RESOURCES COMMITTEE

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SUBCOMMITTEE ON COURTS,
INTELLECTUAL PROPERTY,
AND THE INTERNET

September 24, 2024

Ms. Leah Feldon (Leah.Feldon@deq.oregon.gov)

Director

Oregon Department of Environmental Quality

700 NE Multnomah Street; Suite 600

Portland OR 97232-4100

Re: Proposed Climate Protection Program Rules

Dear Director Feldon:

In my role as a U.S. Congressman, and as a member of the House Committee on Natural Resources, I am deeply committed to protecting the lands and the people that make Oregon a dynamic and robust state. With Oregon's top private employers announcing unprecedented layoffs, and the international flow of goods imposing unprecedented competition on Oregon manufacturing, it is critical that all aspects of government take seriously the need to ensure that any new regulations are carefully tailored so that those being regulated are not destroyed. Nowhere is this truer than in my native Eastern Oregon where manufacturing jobs are hard to create/maintain and easy to lose.

I am writing to express my concerns with the Climate Protection Program (CPP) regulations recently proposed by your department. DEQ's prior program was struck down by the courts in December 2023 due to the agency having failed to follow legally mandated procedures. Notwithstanding the clear admonition of the court for DEQ to be more careful in its adoption of such sweeping rules, DEQ has proceeded to create a largely new industrial source program in an inadequate time period. That the agency failed to take the required time is not just my opinion; DEQ states as much in the proposed rules. In OAR 340-273-0410 (proposed), DEQ states its intent to adopt a temporary program for Emissions-Intensive, Trade-Exposed (EITE) sources that will last two years while the agency figures out the rules DEQ really wants to apply to this fragile set of employers. The temporary program is dysfunctional and will severely harm EITE sources. No justification is provided for imposing a half-baked temporary program while the longer-term intensity-based program is being developed. No justification is sufficient for the harm it will do to our trade-exposed industries.

I would hope that the DEQ is aware that its actions could actually drive trade exposed industries out of our state. While the program to be applied in 2027 is being developed, DEQ should not

require compliance with a defective interim program. This type of regulatory overreach is exactly what harms our competitiveness as a state.

In addition, it is imperative that DEQ include backstops to ensure that if a plant has done everything that is reasonably possible to reduce greenhouse gases, it is not subjected to ever-increasing compliance burdens. Failure to include such protections ensures that our EITE businesses are driven from the state and, ultimately, that greenhouse gases increase.

I strongly urge that DEQ look to the Oregon Legislature for clear direction before embarking on the program it proposes. The CPP will impose unprecedented costs on large and small businesses, residential customers and critical service providers such as hospitals and prisons. Legislators serve a key policy-setting role. The program being advanced is unlike any program DEQ has ever imposed before. DEQ should not proceed into such new territory without an unequivocal legislative mandate. Doing so strikes at the foundations of our democracy since such action violates the separation of powers between the legislative and administrative branches of government.

Part of DEQ's job must be to protect the communities of Eastern Oregon. During this summer's wildfires, companies such as Ash Grove Cement in Durkee were critical to preserving life and property in the surrounding community. Their donation of heavy equipment to stop the fire's advance, and cash donations to help those who were burned out, is to be commended. Out-of-state importers don't make such contributions to rural communities. DEQ should not promote temporary programs that will seriously damage EITE employers like Ash Grove. Oregon will be the worse for such misguided efforts.

I commend companies such as Ash Grove for working to find innovative means to bring cement to market with a lower carbon footprint. Adopting narrow baseline periods with no flexibility to consider whether a company operated under representative conditions during the prescribed period makes no sense and injures companies like Ash Grove. DEQ should be finding ways to reward such rural innovators, not drive them into adjoining states.

I appreciate this opportunity to weigh in on these weighty issues that threaten the continued health and well-being of our state.

Sincerely,



Cliff Bentz
Member of Congress

cc: Matt Donegan, Environmental Quality Commission (EQC) Chair
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