



State of Oregon Department of Environmental Quality

Written Comments: July 18 through July 23, 2024

CPP 2024 Rulemaking

This document is a compilation of all written comments received after the close of the RAC 3 comment period. These comments were received between July 18, 2024, through July 23, 2024.

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July 18, 2024

Ms. Nicole Singh (Nicole.Singh@deq.oregon.gov)
Oregon Department of Environmental Quality
700 NE Multnomah Street; Suite 600
Portland OR 97232-4100

Re: Comments on Draft Climate Protection Program Regulations

Dear Ms. Singh:

PCC Structural, Inc. (PCC) operates four investment casting facilities located in Central and Western Oregon that employ thousands of skilled laborers making investment castings, primarily for the aerospace industry. The Large Parts Campus (LPC), located in Clackamas County, alone employs more than 1,200 people in living-wage jobs. These facilities serve customers worldwide and similarly compete internationally for business in a highly competitive environment. Because of the temperatures needed to heat, cut and treat the specialized alloys essential to our customers, each of our facilities combusts a significant amount of natural gas. For example, the LPC facility greenhouse gas (GHG) emissions are typically between 21,000 and 24,000 metric tons annually. Each of our four facilities emits less than 25,000 metric tons, but in aggregate emit above the 25,000 metric ton threshold.

PCC understands that DEQ will shortly issue for public comment new regulations to implement the Climate Protection Program in Oregon. Based on the draft released to the Rulemaking Advisory Committee, we have concerns as to how the rules are drafted, and how, as drafted, they are unfair to PCC. We outline our primary suggestions on how the rules can be improved and made more equitable below.

The CPP Threshold for Stationary Sources Should be Reduced

We understand that, as proposed, GHG emissions from each of our four facilities will be regulated under the cap, but with the compliance obligation met by our Local Distribution Company (LDC) and passed along to PCC in our monthly bills. This is due to the fact mentioned above that one of our four facilities emits GHGs just below the 25,000 metric ton threshold and the other three facilities each emit GHGs just below 10,000 metric tons/year. By determining emissions intensive, trade-exposed (EITE) status on an individual facility basis and setting the threshold to qualify as an EITE at 25,000 metric tons, the program prevents our facilities from receiving EITE protection, and penalizes us because we emit below 25,000 metric tons per year. This will result in extreme rate shock as the LDCs increase the cost of natural gas in response to the CPP regulations. That, in turn, will impact the viability of continued operations at each of our Oregon sites. By contrast, other slightly larger businesses (those that emit

25,000 metric tons or more a year) will receive protection as EITE entities. Such an outcome is not good for Oregon.

PCC strongly urges DEQ to revise the rules before they go out for public comment to enable sources such as ours to participate in the program as EITEs. The 2018 Vivid Economics study clearly identified investment casting foundries such as ours as a sector meriting EITE protection. Leaving our facilities subject to the full impact of the CPP regulations by excluding them from EITE protections would have severe negative impacts on a critical part of Oregon's economy and, in turn, promote leakage. This would impact communities on both sides of the Cascades. Including PCC's investment casting operations as EITE protected sources would provide limited, but still critical, protection of these businesses. With this in mind, we recommend lowering the threshold above which EITE protections attach as well as allowing facilities to opt into the program even if their emissions are below the stationary source jurisdictional threshold. Alternatively, DEQ could allow companies such as PCC with operations spanning across multiple plants around the state to aggregate emissions in order to qualify for EITE protection.

The Baseline Should Equal the Average of the Highest Two Consecutive Years From the Period 2017 through 2023

The draft rules state that the EITE baseline would be the average of the 2017-2019 actual emissions. We see merit in matching the baseline to the same period as was used to establish the cap (i.e., 2017-2019). However, variability in product demand, because of COVID as well as the business cycles unique to the aerospace industry, supports the idea of establishing the baseline using a two-year period and relying on the highest consecutive two-year emissions period between 2017 and 2023. PCC's operating levels increase and decrease cyclically as the aerospace industry expands and contracts. Identifying a representative baseline period requires taking into account that variation and recognizing that not all industries vary in the same manner or on the same calendar. Setting baseline based on the highest consecutive two-year period is administratively simple as the emission values are already reported to DEQ and so readily available. Failure to allow a source to establish its baseline in this manner will severely impact industrial sources that have variable production levels and result in baselines that are not representative of operations during the initial compliance period.

DEQ Should Adopt a Backstop Program Such as Washington is Implementing

As drafted, the Oregon rules contain no backstop to address the situation where an EITE manufacturer has done everything it can reasonably do to reduce GHG emissions but still has emissions in excess of its compliance instrument allocation. Unless the rules are changed, EITEs facing this situation would be forced to shift production out of state. Washington has addressed this situation by awarding additional allowances to EITE manufacturers that demonstrate that further reductions in carbon intensity or mass emissions are not technically or economically feasible. Upon making such a demonstration, the source is entitled to an upward adjustment in the number of allowances allocated to it. We recommend that DEQ include an equivalent provision in the CPP regulations so as to avoid leakage and the associated increase in GHG emissions. The CPP regulations should not result in lost Oregon manufacturing jobs and increased global GHG emissions. Including a backstop similar to Washington's reduces the potential for such an outcome.

We look forward to reviewing the formal comment version of the rules. Please contact me if you have any questions regarding these suggested changes.

Sincerely,



Ruth Beyer
Senior Vice President and General Counsel
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cc: David Dugan, Director of Communications
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July 18, 2024

Re: Comments on Draft Climate Protection Program Rules

Dear Ms. Singh:

Thank you for meeting with us to discuss our questions and concerns regarding the draft Climate Protection Program (CPP) rules. In follow-up to our discussion, Dyno Nobel is pleased to submit the following comments.

Dyno Nobel is proactively involved with our communities and committed to minimizing environmental impacts. We believe sustainability is the creation of long-term economic value whilst caring for our people, our communities, and our environment. This commitment to sustainability is driven by our Company Purpose and Values. It is core to the way we operate our business. We recognize that sustainable growth requires acknowledging and proactively managing those issues which are most material to the long-term sustainability of our business, our environment, and the communities in which we operate. Consistent with that purpose, we support Oregon's efforts to address climate change and to strike a proper balance between reducing greenhouse gas emissions and maintaining working wage jobs, particularly in Oregon's rural communities.

Our St. Helens facility is an important part of Columbia County, directly employing 75 full time employees and generating many more indirect jobs in the region. The plant includes fully integrated manufacturing of ammonia, urea (both prill and solutions) and urea ammonium nitrate (UAN), all critical fertilizers used by agricultural customers as well as reagent in air pollution control equipment. As the only regional manufacturer of ammonia, and one of only two nitrogen plants in the Pacific Northwest, the plant minimizes transportation emissions as it supplies farmers throughout the Columbia Basin and other agriculture areas. A truckload of urea delivered locally has a significantly lower greenhouse gas footprint than a truckload delivered cross-country.

Our process is unique in the state in that the majority of natural gas we receive at the plant is not combusted. Instead, that feedstock natural gas goes through a reformer process where the methane is cracked to form ammonia. Rather than being vented as it is at many comparable plants, the carbon dioxide (CO₂) generated by this process is predominantly used to make urea with a lesser amount captured and sold for industrial use. This beneficial use of the CO₂, as opposed to direct venting, is environmentally sound and reduces the plant's greenhouse

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emissions considerably.

Based on our unique manufacturing process and focus on carbon capture and beneficial use, we are pleased to provide the following specific comments on the draft rules.

NAICS Code 3253 Should be Identified in Table 7 as an EITE Source Classification

We believe that Table 7 of the draft rules should identify Dyno Nobel's NAICS code of 3253 as an emissions intensive, trade-exposed (EITE) source classification. We believe that our NAICS code was inadvertently not included due to an error dating back to the 2018 Vivid Economics study which evaluated Oregon manufacturing sectors properly considered EITEs. Our facility was discussed in that study and classified as appropriately considered EITE, but was (wrongly) identified as being in NAICS code 3251 "Basic Chemical Manufacturing." That code (3251) is included in Table 7 of the draft rules. However, our actual NAICS code is 3253 (Pesticide, Fertilizer, and Other Agricultural Chemical Manufacturing). The Vivid Economics report incorrectly stated that there were no sources in Oregon covered by NAICS code 3253. Given the commodity markets that we serve, the St. Helens facility is clearly deserving of EITE protection and our correct NAICS code is appropriately included in the table.

OAR 340-273-0110(6)(b) Should be Clarified to Exclude Natural Gas that is Neither Oxidized Nor Combusted

As the result of discussions we had three years ago, OAR 340-273-0110(4)(b)(A) reflects that for natural gas local distribution companies (LDCs), "covered emissions" are limited to emissions "that would result from the complete combustion or oxidation" of natural gas. This language was added to reflect that at our St. Helens facility, the majority of our natural gas is neither combusted nor oxidized, but, instead, is used as process feedstock. This worked under the prior rule set. However, in the current draft, this exclusion language was not carried through to EITEs in OAR 340-273-0110(6)(b)(A). Instead, the draft states that covered emissions include emissions "from all uses of natural gas." We recognize that this language arguably still excludes our use of natural gas as feedstock because that natural gas does not give rise to emissions. However, we request that an exception be added to OAR 340-273-0110(6)(b)(B) clarifying this. At a minimum, DEQ should state in the rulemaking record that natural gas used as a feedstock in a process such as ours is excluded from the program. We note that OAR 340-273-0110(6)(b)(B)(i) is missing in the rule draft we have seen and perhaps this is the exception that we request.

Baseline Should Equal the Average of Two Consecutive Years of the Source's Choosing

We understand from the draft rules that DEQ is proposing to set the baseline for EITEs as the average of the 2017-2019 actual emissions. We strongly urge DEQ to use a two consecutive year period for establishing baseline and to allow that period to be chosen by the source. Our plant requires periodic major maintenance (referred to as "turnarounds") that can take the plant out of service for several months. In addition, we sometimes have key components fail that can

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significantly impact production levels until a replacement part is obtained. As a result, any year in which a turnaround occurred or a critical process component failed might not be representative of normal operations (depending on the duration.) Turnarounds typically occur every two to three years and occurred in 2020 and 2023. If the source is not allowed to choose, the baseline would materially distort the annual emission rate we expect to see in a normal year. Whether allocating mass emission allowances in the first compliance period or setting our intensity for subsequent compliance periods, the use of another period would result in a value that is not representative of normal conditions. We recognize that different industries have different maintenance cycles and so we believe that it is important that each source be able to select a two-year period representative of normal operations.

An alternative to allowing a source to select its baseline would be for the rules to provide the opportunity to demonstrate to the Department that one or more of the mandatory baseline years are not actually representative of normal operations. Such an approach would be similar to what DEQ allowed when establishing the criteria pollutant baseline. If the Department was satisfied that one or more years were not representative, it could work with the source to develop a representative value.

We hope the comments provided above are helpful to you in finalizing your rule package for the public comment stage. Dyno Nobel supports a clear and understandable program that does not result in increased transportation emissions as the result of reducing the competitiveness of local suppliers like our St. Helens plant. We thank you for your efforts in this regard.

Please let me know if you have any questions after reviewing this letter.

Regards,

Signed by:

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