



CONCERNS WITH HB 4167 | CAP-AND-TRADE

As representatives of more than a dozen of Oregon’s most vital industries, we wanted to register our strong and clear opposition to HB 4167. HB 4167 expands upon the same flawed framework as HB 2020 (2019) and, despite suggestions to the contrary, the new language incorporated in the bill makes the proposal markedly worse – not better. As you continue your consideration of this legislation, we wanted to be proactive in sharing our continued concerns with this legislation. We firmly believe that if the issues we have raised are left unaddressed, Oregon employers, workers and consumers will experience significant negative consequences. In reviewing these concerns, it is important to recognize that industries cannot be viewed independently from one another when analyzing impacts. Manufacturing, for example, is impacted through direct regulation of the industry but will also feel significant indirect impacts related to natural gas and transportation and through increased costs up and down the supply chain.

Below is a brief introduction to some of the issues we believe need attention:

TRANSPORTATION

- Impacts to Highway Trust Fund
 - One goal of climate change legislation is to transition away from fossil-fuel powered vehicles and toward electric and other low emission vehicles and fuels. While this is a goal we support, Oregon’s transportation system is funded, in large part, through fuel taxes. As cap and trade accelerates this already declining revenue stream, less funding is available to maintain and preserve critical infrastructure.
- Cost Containment and Impact to Motorists and Trucking
 - The cumulative increases in fuel costs to cars and trucks due to the 2017 Transportation Funding Package (10 cents), the Low Carbon Fuel Standard (indeterminate), market conditions outside of Oregon’s ability to control, and the proposed cap and trade legislation continues to be of significant concern.
 - The stacking of multiple carbon programs (LCFS + Cap-and-Trade) will have a profound impact on all Oregon motorists, freight trucking, and will have downstream negative impacts on the Oregon economy. Lawmakers should pursue a “one-carbon policy” approach to avoid double taxation of Oregon citizens.
 - The vast majority of freight trucking relies on diesel fuel, and because no commercially viable alternatives currently exist, transportation cost increases stemming from a cap and trade program will result in increased prices for all consumer goods and building materials.
 - The regionalized regulation of fuels included in HB 4167 fails to adequately protect rural Oregon. Regionalized fuel regulation also puts industries such as farming and ranching at a competitive advantage/disadvantage depending on their location.
- Future Transportation Investments and the Economy
 - With no planned funding alternative, continued adoption of fuel-efficient vehicles, and additional mandates from HB 4167, Highway Trust Fund revenues will dramatically decrease over time. Declining revenues will curtail future debt capacity and bonding capability. It will also reduce road maintenance budgets for the state, counties, and cities, jeopardizing road and bridge conditions across Oregon.
- Price Impacts on Labor and Procurement
 - HB 4167 contains highly burdensome and unfeasible procurement, labor, and public contracting mandates. These mandates serve no carbon reduction purpose and would dramatically increase project costs, frequently increase project delays, potentially result in other states applying retaliatory reciprocal preferences, make it functionally impossible for most local jurisdictions in the state to comply, and would inhibit the carbon

program's capacity to achieve its stated objectives. In prior Oregon legislative sessions, the legislature has consistently rejected similar mandates as too costly, complex, and onerous.

- Expedited Review
 - As currently drafted, expedited review provisions grant standing to an unlimited pool of individuals who would ordinarily lack any real grievance to bring suit under the Oregon Constitution, placing the Highway Trust Fund in jeopardy.
 - Since 1942, voters have thwarted attempts to direct highway funds to alternative uses on nine separate occasions. Each time, voters upheld the existing Highway Trust Fund structure by overwhelming majorities. Expedited review of cap and trade flies in the face of nearly 80 years of clear voter intent and takes away the voice of Oregonians.

MANUFACTURING

- HB 4167 creates two different classes of manufacturers:
 - Trade Exposed Natural Gas Users (TENGUs)
 - Emissions Intensive Trade Exposed Facilities (EITEs)
- TENGUs would qualify for 100% allowances until 2030 under the program; however, there is a great deal of uncertainty around the Public Utility Commission process and whether manufacturers will in fact be kept whole. Furthermore, beginning in 2030, manufacturers would begin paying at least a 3% tax on their natural gas use, even if they are deploying best available technologies and carbon reduction practices. To say nothing of language changes that could substantially diminish the value of allowances by transitioning to a subjective non-volumetric approach.
 - Additionally, the process for appealing energy management systems audits must have some sideboards based in statute, not left up to DEQ's sole discretion.
- Beginning in 2025, EITEs would be awarded allowances based on their compliance with Best Available Technology (BAT) standards. We have significant concerns over the process that would determine BAT standards, including an unclear definition of what BAT means in practice, as well as the significant financial burden EITEs would face during the BAT determination process.
- Separately, the DEQ is engaged in multiple rulemaking efforts that suggest the cap-and-trade program will be expanded well beyond the program envisioned in HB 4167. Lawmakers have made zero commitments with respect to maintaining any TENGU or EITE relief provisions.
- Wood products manufacturers will most certainly be impacted by the program. While many will qualify for the initial TENGU allowances, the rate relief going forward is far from certain in addition to the significant cost impacts of transporting products.

NATURAL GAS

- While language in HB 4167 suggests low-income Oregonians will be held harmless from natural gas rate increases through allowances awarded to natural gas providers, the bill does not define a threshold for qualifying as low-income. Utilities do not currently have a mechanism for determining if a customer is low income, and the prospect of identification raises significant privacy concerns.
- HB 4167 affords middle-income Oregonians significantly less in the way of rate protections, leaving many Oregon families paying double-digit utility rate increases in the first year of the program and escalating each additional year.
- Small- and mid-sized industrial and commercial consumers may only receive relief through a bureaucratic consignment process with no guarantees related to the extent of relief.

AGRICULTURE & NATURAL RESOURCES

- Proponents continue to claim that agriculture and natural resource industries are exempt under the program. This is false. Several ag subsectors are specifically called out as regulated TENGUs under Section 18 of the bill.
- Additionally, the agriculture and natural resource industries would be significantly impacted by increased natural gas rates, propane costs and vehicle fuel costs.
- Oregon's ag sector - including farming, forestry, nursing and ranching – is highly trade exposed and operates on thin margins. The cap-and-trade program envisioned in HB 4167 would continue to make this industry less competitive in regional and global markets.