

TO: Speaker Tina Kotek
AmyBeth Stevens, District Director

FR: Institute of Scrap Recycling Industries (ISRI)
Pacific Northwest Chapter

RE: House Bill 3372

Speaker Kotek,

ISRI appreciates the opportunity to provide initial comments regarding HB 3372. ISRI and its members are a key part of the recycling system and have invested time and money to meet Oregon Environmental Law. Our understanding of the intent behind HB 3372 is to give DEQ the means to reject permits from repetitive “bad actors” in the system. Every industry has these individuals or businesses, and we agree it is troubling to see their operators continue to get permits – something that harms all of us who seek to play a key role in the recycling stream while complying with federal, state and local laws.

Our initial questions and concerns with HB 3372 and the -1 Amendment are as follows:

- For DEQ to refuse to issue a permit or renew a permit based on prior environmental compliance status would require applicants to spend more money and time applying for the required permit. There is an added cost and a negative economic effect.
- We believe further clarification is needed to clearly define what records/information are necessary – federal, Oregon only, records from related facilities in other states, county, municipal, etc.
 - DEQ would already have all the applicable state records for the facility, so it appears the records of interest would be federal, from other states, or local. Who will be required to obtain these records – the applicant?
 - Will DEQ require other state records? And if so, how would those be treated since standards and regulations vary by state.
- What period of time will be used for review?
- If an applicant is pursuing a permit in one media (air, water, waste) and they had violations in another media, how would that be interpreted and implemented?
- If an applicant has never been required to have a permit, how will prior compliance history be assessed?
- Will all applications go through this vetting? If not, how will applicants be selected for this process?
- Who at DEQ would make this decision, and how would their qualifications to do so be determined?
- What timeline will DEQ follow, to provide certainty for the applicant that the agency will be compelled to act by a certain date?

- How would the range of violation severity (Class I, 2, 3) be assessed for the decision?
- What demonstrable positive environmental and/or economic impacts does this bill provide?
- Has ORS 468.070 been considered in this instance? It seems that DEQ already has the necessary authority to deny an operator a permit for multiple reasons, including but not limited to criminal history or not complying with previous actions.

We flag these questions because we believe there should be measurable and consistent standards that all applicants must abide by. We also do not want unintended consequences to negatively impact the good actors who consistently improve their operations, follow regulatory standards, and address any compliance issues that may arise through normal course of business when seeking a permit renewal.

From research ISRI has conducted, there is a state that does have language that could meet all of our shared goals. We have copied the relevant language below from North Dakota:

NDCC, 23.1-08-17

Formerly cited as ND ST § 23-29-07.11

§ 23.1-08-17. Disclosure of information before issuance, renewal, transfer, or major modification of permit

Before an application for the issuance, renewal, transfer, or major modification of a permit under this chapter may be granted, the applicant shall submit to the department a disclosure statement executed under oath or affirmation. The department shall verify and may investigate the information in the statement and shall **deny** an application for the **issuance, renewal**, transfer, or major modification of a permit if the applicant has intentionally misrepresented or concealed any material fact in a statement required under this section, a judgment of criminal conviction for violation of any federal or state environmental laws has been entered against the applicant within five years before the date of submission of the application, or the applicant has knowingly and **repeatedly violated** any state or federal environmental protection laws. The disclosure statement must include:

1. The name and business address of the applicant.
2. A description of the applicant's experience in managing the type of solid waste that will be managed under the permit.
3. A description of every civil and administrative complaint against the applicant for the violation of any state or federal environmental protection law which has resulted in a fine or penalty of more than ten thousand dollars within five years before the date of the submission of the application.
4. A description of every pending criminal complaint alleging the violation of any state or federal environmental protection law.

Credits [S.L. 2017, ch. 199 \(S.B. 2327\), § 23](#), (contingent effective date).

NDCC 23.1-08-17, ND ST 23.1-08-17



- Washington
- Oregon
- Alaska
- British Columbia

5. A description of every judgment of criminal conviction entered against the applicant within five years before the date of submission of the application for the violation of any state or federal environmental protection law.
6. A description of every judgment of criminal conviction of a felony constituting a crime involving fraud or misrepresentation which has been entered against the applicant within five years before the date of submission of the application.

We welcome the opportunity to continue this conversation further and understand the timeline you are operating under. Thank you for the outreach by your staff to-date. We look forward to working with you.

Respectfully,

A handwritten signature in black ink, appearing to read "Sean Daoud". The signature is fluid and cursive.

Sean Daoud
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