

# House Bill 3307

Sponsored by Representative BARNHART; Representatives KENY-GUYER, MALSTROM

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires Environmental Quality Commission to adopt by rule program for regulating air contaminant emissions from new facilities generating methane or other toxic gas. Requires Department of Environmental Quality to administer and enforce program.

Becomes operative January 1, 2019.

Requires department to report on program to interim committees on environment and natural resources no later than September 15, 2020.

## A BILL FOR AN ACT

Relating to air contaminant emissions; creating new provisions; and amending ORS 468A.020.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1. Sections 2 and 3 of this 2017 Act are added to and made a part of ORS chapter 468A.**

**SECTION 2. (1) As used in this section, "toxic gas" means:**

**(a) Methane or other greenhouse gases as defined in ORS 468A.210; or**

**(b) A gas identified in the Toxics Release Inventory established by the United States Environmental Protection Agency under section 313 of the federal Emergency Planning and Community Right-to-Know Act (42 U.S.C. 11023).**

**(2) The Environmental Quality Commission shall adopt by rule a program for regulating toxic gas emissions to prevent the release of toxic gas into the atmosphere of this state. The program shall include, but need not be limited to, rules requiring new facilities that are a source of methane or other toxic gas in amounts practicable for treatment to reduce emissions of the gas through the use of:**

**(a) Anaerobic digesters, or other waste processing equipment approved by the commission; and**

**(b) Equipment capable of using the methane and other toxic gas produced by the digesters or other waste processing equipment to generate renewable energy or to promote transportation, building operations or other benefits.**

**(3) In adopting rules as required by this section, the commission shall consult with the State Department of Agriculture, the Department of Human Services, the Department of Education, the Natural Resources Conservation Service of the United States Department of Agriculture and other interested state and federal agencies.**

**(4) Notwithstanding ORS 315.304 and 468.155 to 468.190, anaerobic digesters or other waste processing equipment required by the commission program established under this section do not qualify for a credit against taxes imposed under ORS chapter 316, 317 or 318.**

**SECTION 3. The Department of Environmental Quality shall carry out the program for regulating methane and other toxic gas emissions under section 2 of this 2017 Act. In car-**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **rying out the program, the department may enter onto and inspect a facility, at any rea-**  
 2 **sonable time, for the purpose of investigating a source of methane or other toxic gas**  
 3 **emissions or to ascertain compliance with a statute, rule, standard or permit condition re-**  
 4 **lating to the control or prevention of methane or other toxic gas emissions from the facility.**  
 5 **The department shall have access to a pertinent record of a facility, including but not limited**  
 6 **to a blueprint, design drawing and specification, maintenance record or log, or an operating**  
 7 **rule, procedure or plan.**

8 **SECTION 4.** ORS 468A.020 is amended to read:

9 468A.020. (1) Except as provided in subsection (2) of this section, the air pollution laws con-  
 10 tained in ORS chapters 468, 468A and 468B do not apply to:

11 (a) Agricultural operations, including but not limited to:

12 (A) Growing or harvesting crops;

13 (B) Raising fowl or animals;

14 (C) Clearing or grading agricultural land;

15 (D) Propagating and raising nursery stock;

16 (E) Propane flaming of mint stubble; and

17 (F) Stack or pile burning of residue from Christmas trees, as defined in ORS 571.505, during the  
 18 period beginning October 1 and ending May 31 of the following year.

19 (b) Equipment used in agricultural operations, except boilers used in connection with propagat-  
 20 ing and raising nursery stock.

21 (c) Barbecue equipment used in connection with any residence.

22 (d) Heating equipment in or used in connection with residences used exclusively as dwellings for  
 23 not more than four families, except solid fuel burning devices, as defined in ORS 468A.485, that are  
 24 subject to regulation under this section and ORS 468A.140 and 468A.460 to 468A.515.

25 (e) Fires set or permitted by any public agency when such fire is set or permitted in the per-  
 26 formance of its official duty for the purpose of weed abatement, prevention or elimination of a fire  
 27 hazard, or instruction of employees in the methods of fire fighting, which in the opinion of the  
 28 agency is necessary.

29 (f) Fires set pursuant to permit for the purpose of instruction of employees of private industrial  
 30 concerns in methods of fire fighting, or for civil defense instruction.

31 (2) Subsection (1) of this section does not apply to the extent:

32 (a) Otherwise provided in ORS 468A.555 to 468A.620, 468A.790, 468A.992, 476.380 and 478.960;

33 (b) Necessary to implement the federal Clean Air Act (P.L. 88-206 as amended) under ORS  
 34 468A.025, 468A.030, 468A.035, 468A.040, 468A.045 and 468A.300 to 468A.330; or

35 (c) Necessary for the Environmental Quality Commission[, *in the commission's discretion, to im-*  
 36 *plement a recommendation of the Task Force on Dairy Air Quality created under section 3, chapter*  
 37 *799, Oregon Laws 2007, for the regulation of dairy air contaminant emissions.*] **to carry out a pro-**  
 38 **gram under section 2 of this 2017 Act regulating toxic gas emissions.**

39 (3)(a) Except to the extent necessary to implement the federal Clean Air Act (P.L. 88-206 as  
 40 amended), the air pollution laws contained in ORS 468A.025, 468A.030, 468A.035, 468A.040, 468A.045  
 41 and 468A.300 to 468A.330 do not apply to carbon dioxide emissions from the combustion or decom-  
 42 position of biomass.

43 (b) As used in this subsection, "biomass" means:

44 (A) Nonfossilized and biodegradable organic materials that originate from plants, animals and  
 45 microorganisms and that are products, byproducts, residues or wastes from agriculture, forestry and

1 related industries;

2 (B) Nonfossilized and biodegradable organic fractions of industrial and municipal wastes; and

3 (C) Gases and liquids recovered from the decomposition of nonfossilized and biodegradable or-  
4 ganic matter.

5 **SECTION 5.** (1) Sections 2 and 3 of this 2017 Act and the amendments to ORS 468A.020  
6 by section 4 of this 2017 Act become operative on January 1, 2019.

7 (2) The Environmental Quality Commission may adopt rules and take any actions, and  
8 the Department of Environmental Quality may take any actions, before January 1, 2019, to  
9 enable or facilitate the carrying out of sections 2 and 3 of this 2017 Act and the amendments  
10 to ORS 468A.020 by section 4 of this 2017 Act. Any rules adopted by the commission under  
11 this subsection do not become operative until January 1, 2019.

12 **SECTION 6.** The Department of Environmental Quality shall submit a report on the im-  
13 plementation of sections 2 and 3 of this 2017 Act, which may include recommendations for  
14 legislation, to the interim legislative committees on environment and natural resources on  
15 or before September 15, 2020.

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