

Requested by HOUSE COMMITTEE ON ENERGY AND ENVIRONMENT

**PROPOSED AMENDMENTS TO
HOUSE BILL 2269**

1 On page 1 of the printed bill, line 2, delete “468A.025,”.

2 In line 3, after “468A.803” delete the rest of the line.

3 In line 4, delete “2007”.

4 Delete lines 9 through 24 and delete page 2 and insert:

5 **“SECTION 1.** ORS 468A.315 is amended to read:

6 “468A.315. (1) The fee schedule required under ORS 468.065 (2) for a
7 source subject to the federal operating permit program shall be based on a
8 schedule established by rule by the Environmental Quality Commission in
9 accordance with this section. Except for the additional fee under subsection
10 (2)(e) of this section, this fee schedule shall be in lieu of any other fee for
11 a permit issued under ORS 468A.040, 468A.045 or 468A.155. The fee schedule
12 shall cover all reasonable direct and indirect costs of implementing the fed-
13 eral operating permit program and shall consist of:

14 “(a) An emission fee per ton of each regulated pollutant emitted during
15 the prior calendar year as determined under subsection (2) of this section,
16 subject to annual fee increases as set forth in paragraph [(d)] (e) of this
17 subsection. The following emission fees apply:

18 “(A) \$27 per ton emitted during the 2006 calendar year.

19 “(B) \$29 per ton emitted during the 2007 calendar year.

20 “(C) \$31 per ton emitted during the 2008 calendar year and each calendar
21 year thereafter.

1 “(b) Fees for the following specific elements of the federal operating per-
2 mit program:

3 “(A) Reviewing and acting upon applications for modifications to federal
4 operating permits.

5 “(B) Any activity related to permits required under ORS 468A.040 other
6 than the federal operating permit program.

7 “(C) Department of Environmental Quality activities for sources not sub-
8 ject to the federal operating permit program.

9 “(D) Department review of ambient monitoring networks installed by a
10 source.

11 “(E) Other distinct department activities created by a source or a group
12 of sources if the commission finds that the activities are unique and specific
13 and that additional rulemaking is necessary and will impose costs upon the
14 department that are not otherwise covered by federal operating permit pro-
15 gram fees.

16 “(c) A base fee for a source subject to the federal operating permit pro-
17 gram. This base fee shall be no more than the fees set forth in subparagraphs
18 (A) to (D) of this paragraph, subject to increases as set forth in paragraph
19 [(d)] (e) of this subsection:

20 “(A) \$2,700 for the period of November 15, 2007, through November 14,
21 2008.

22 “(B) \$2,900 for the period of November 15, 2008, through November 14,
23 2009.

24 “(C) \$3,100 for the period of November 15, 2009, through November 14,
25 2010.

26 “(D) \$4,100 for the period of November 15, 2010, through November 14,
27 2011, and for each annual period thereafter.

28 **“(d) A special activity fee to fund the investigation of complaints**
29 **related to sources subject to the federal operating permit program.**
30 **The special activity fee shall be limited to a base amount of \$317 plus**

1 **an additional amount equal to \$0.37 per ton of each regulated pollutant**
2 **emitted during the prior calendar year as determined under subsection**
3 **(2) of this section, subject to annual fee increases as set forth in par-**
4 **agraph (e) of this subsection.**

5 “[*d*] (e) An annual increase in the fees set forth in paragraphs (a) to
6 [*c*] (d) of this subsection by the percentage, if any, by which the Consumer
7 Price Index exceeds the Consumer Price Index as of the close of the 12-month
8 period ending on August 31, 1989, if the commission determines by rule that
9 the increased fees are necessary to cover all reasonable direct and indirect
10 costs of implementing the federal operating permit program.

11 “(2)(a) The fee on emissions of regulated pollutants required under this
12 section shall be based on the amount of each regulated pollutant emitted
13 during the prior calendar year as documented by information provided by the
14 source in accordance with criteria adopted by the commission or, if the
15 source elects to pay the fee based on permitted emissions, the fee shall be
16 based on the emission limit for the plant site of the major source.

17 “(b) The fee required by subsection (1)(a) of this section does not apply
18 to any emissions in excess of 4,000 tons per year of any regulated pollutant
19 through calendar year 2010 and in excess of 7,000 tons per year of all regu-
20 lated pollutants for each calendar year thereafter. The department may not
21 revise a major source’s plant site emission limit due solely to payment of the
22 fee on the basis of documented emissions.

23 “(c) The commission shall establish by rule criteria for the acceptability
24 and verifiability of information related to emissions as documented, includ-
25 ing but not limited to the use of:

26 “(A) Emission monitoring;

27 “(B) Material balances;

28 “(C) Emission factors;

29 “(D) Fuel use;

30 “(E) Production data; or

1 “(F) Other calculations.

2 “(d) The department shall accept reasonably accurate information that
3 complies with the criteria established by the commission as documentation
4 of emissions.

5 “(e) The rules adopted under this section shall require an additional fee
6 for failure to pay, substantial underpayment of or late payment of emission
7 fees.

8 “(3) The commission shall establish by rule the size fraction of total
9 particulates subject to emission fees as particulates under this section.

10 “(4) As used in this section:

11 “(a) ‘Regulated pollutant’ means particulates, volatile organic compounds,
12 oxides of nitrogen, and sulfur dioxide; and

13 “(b) ‘Consumer Price Index’ has the meaning given in 42 U.S.C. 7661a(b),
14 as in effect on June 20, 2007.”.

15 On page 3, delete lines 1 through 7.

16 In line 8, delete “(1)(a)”.

17 After line 9, insert:

18 **“SECTION 2a. (1) In addition to and not in lieu of any other fee**
19 **required by law, an air contamination source that has been issued or**
20 **that applies for a permit pursuant to ORS 468A.040 or 468A.310, which**
21 **authorizes the source to emit air contaminants during the period be-**
22 **ginning July 1, 2017, and ending June 30, 2018, shall pay to the De-**
23 **partment of Environmental Quality a one-time supplemental fee as**
24 **provided in subsections (3) and (4) of this section.**

25 **“(2) Supplemental fees collected under this section shall be depos-**
26 **ited into the State Treasury to the credit of an account of the De-**
27 **partment of Environmental Quality. Moneys deposited under this**
28 **subsection are continuously appropriated to the department for the**
29 **payment of expenses of the department and the Environmental Quality**
30 **Commission in developing and implementing, under ORS 468A.025**

1 (4)(e), a program and rules to reduce the public health risks of emis-
2 sions of toxic air pollutants from industrial sources.

3 “(3) The one-time supplemental fee required under this section for
4 a source subject to the federal operating permit program established
5 pursuant to ORS 468A.310 shall be a base amount of \$1,256 plus an
6 additional amount equal to \$9.49 per ton of each regulated pollutant
7 emitted during the 2016 calendar year as determined under ORS
8 468A.315 (2).

9 “(4) The one-time supplemental fee required under this section for
10 a source subject to the following permitting requirements under ORS
11 468A.040 and rules adopted pursuant to ORS 468A.040 shall be as fol-
12 lows:

13 “(a) For a source subject to a permit regulating basic air contam-
14 inant discharges, a supplemental fee of \$68.

15 “(b) For a source subject to a permit regulating general, class I, air
16 contaminant discharges, a supplemental fee of \$137.

17 “(c) For a source subject to a permit regulating general, class II,
18 air contaminant discharges, a supplemental fee of \$246.

19 “(d) For a source subject to a permit regulating general, class III,
20 air contaminant discharges, a supplemental fee of \$355.

21 “(e) For a source subject to a permit regulating general, class IV,
22 air contaminant discharges, a supplemental fee of \$68.

23 “(f) For a source subject to a permit regulating general, class V,
24 air contaminant discharges, a supplemental fee of \$23.

25 “(g) For a source subject to a permit regulating general, class VI,
26 air contaminant discharges, a supplemental fee of \$46.

27 “(h) For a source that is subject to a permit regulating simple air
28 contaminant discharges and that qualifies to pay a low fee under rules
29 adopted by the Environmental Quality Commission under ORS 468.065,
30 a supplemental fee of \$364.

1 “(i) For a source that is subject to a permit regulating simple air
2 contaminant discharges and that qualifies to pay a high fee under
3 rules adopted by the commission under ORS 468.065, a supplemental
4 fee of \$728.

5 “(j) For a source subject to a permit regulating standard air con-
6 taminant discharges, a supplemental fee of \$1,456.

7 “(5)(a) A source that has been issued, on or before the effective date
8 of this 2017 Act, a permit under ORS 468A.040 or 468A.310 to emit air
9 contaminants during the period beginning July 1, 2017, and ending
10 June 30, 2018, shall pay to the Department of Environmental Quality
11 the applicable supplemental fee required under this section no later
12 than 30 days after the date of the invoice issued by the department for
13 the supplemental fee.

14 “(b) If, on or after the effective date of this 2017 Act, a source
15 submits an application to the department for a permit under ORS
16 468A.040 or 468A.310 that, if issued by the department, would authorize
17 the source to emit air contaminants during the period beginning July
18 1, 2017, and ending June 30, 2018, the applicable supplemental fee re-
19 quired by this section shall accompany the application for the permit.

20 “(6)(a) Any rule adopted under ORS 468A.315 regarding late payment
21 of emission fees shall apply to sources described in subsection (3) of
22 this section in the same manner applicable to sources subject to the
23 fee schedule adopted under ORS 468A.315.

24 “(b) Any rule adopted under ORS 468.065 (2) regarding late payment
25 of emission fees shall apply to sources described in subsection (4) of
26 this section in the same manner applicable to sources subject to the
27 fee schedule adopted under ORS 468.065 (2) for permits issued under
28 ORS 468A.040.

29 “(7) The Department of Environmental Quality may, in the manner
30 provided in ORS 468.070, refuse to issue, suspend, revoke or refuse to

1 **renew a permit issued under ORS 468A.040 or 468A.315 for failure to**
2 **comply with the provisions of this section.”.**

3 In lines 38 through 40, restore the bracketed material.

4 In line 38, delete “(8)” and insert “(12)”.

5 In line 41, delete “(12)” and insert “(13)”.

6 In line 44, delete “(13)” and insert “(14)”.

7 In line 45, delete “(14)(a)” and insert “(15)(a)”.

8 On page 4, line 7, delete “(15)” and insert “(16)”.

9 In line 10, delete “(16)” and insert “(17)”.

10 In line 14, delete “(17)” and insert “(18)”.

11 In line 15, delete “(18)” and insert “(19)”.

12 In lines 42 through 44, restore the bracketed material.

13 In line 42, delete “(8)” and insert “(12)”.

14 In line 45, delete “(12)” and insert “(13)”.

15 On page 5, line 3, delete “(13)” and insert “(14)”.

16 In line 4, delete “(14)(a)” and insert “(15)(a)”.

17 In line 11, delete “(15)” and insert “(16)”.

18 In line 14, delete “(16)” and insert “(17)”.

19 In line 18, delete “(17)” and insert “(18)”.

20 In line 19, delete “(18)” and insert “(19)”.

21 On page 7, delete lines 40 through 42 and insert:

22 “(d) Any other moneys deposited in the fund from any source.”.

23 On page 9, after line 22, insert:

24 “(E) Vehicles owned and operated by the federal government or a local
25 government.”.

26 On page 10, delete lines 31 through 45 and delete page 11.

27 On page 12, delete lines 1 through 14.

28 In line 19, delete “14” and insert “13”.

29 On page 13, delete lines 22 through 45.

30 On page 14, delete lines 1 through 42.

1 On page 15, line 1, delete “16” and insert “14”.

2 In line 7, delete “17” and insert “15”.

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