

Requested by Senator DEMBROW

**PROPOSED AMENDMENTS TO
HOUSE BILL 3229**

1 On page 1 of the printed bill, delete lines 5 through 28.

2 Delete page 2.

3 On page 3, delete lines 1 through 43 and insert:

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

5 “468A.315. (1) The fee schedule required under ORS 468.065 (2) for a
6 source subject to the federal operating permit program shall be based on a
7 schedule established by rule by the Environmental Quality Commission in
8 accordance with this section. Except for the additional fees under subsection
9 (2)(e) of this section and ORS 468A.345, this fee schedule shall be in lieu of
10 any other fee for a permit issued under ORS 468A.040, 468A.045 or 468A.155.
11 The fee schedule shall cover all reasonable direct and indirect costs of im-
12 plementing the federal operating permit program and shall consist of:

13 “(a) An emission fee **of \$95** per ton of each regulated pollutant emitted
14 during the prior calendar year as determined under subsection (2) of this
15 section. [*subject to annual fee increases as set forth in paragraph (d) of this*
16 *subsection. The following emission fees apply:*]

17 “[*(A) \$27 per ton emitted during the 2006 calendar year.*]

18 “[*(B) \$29 per ton emitted during the 2007 calendar year.*]

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

21 “(b) Fees for the following specific elements of the federal operating per-

1 mit program:

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

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

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

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

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

15 “(c) A base fee **of \$12,504** for a source subject to the federal operating
16 permit program. *[This base fee shall be no more than the fees set forth in*
17 *subparagraphs (A) to (D) of this paragraph, subject to increases as set forth*
18 *in paragraph (d) of this subsection.]*

19 “[A] \$2,700 for the period of November 15, 2007, through November 14,
20 2008.]

21 “[B] \$2,900 for the period of November 15, 2008, through November 14,
22 2009.]

23 “[C] \$3,100 for the period of November 15, 2009, through November 14,
24 2010.]

25 “[D] \$4,100 for the period of November 15, 2010, through November 14,
26 2011, and for each annual period thereafter.]

27 “[d] An annual increase in the fees set forth in paragraphs (a) to (c) of this
28 subsection by the percentage, if any, by which the Consumer Price Index ex-
29 ceeds the Consumer Price Index as of the close of the 12-month period ending
30 on August 31, 1989, if the commission determines by rule that the increased

1 *fees are necessary to cover all reasonable direct and indirect costs of imple-*
2 *menting the federal operating permit program.]*

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

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

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

18 “(A) Emission monitoring;

19 “(B) Material balances;

20 “(C) Emission factors;

21 “(D) Fuel use;

22 “(E) Production data; or

23 “(F) Other calculations.

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

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

30 “(3) The commission shall establish by rule the size fraction of total

1 particulates subject to emission fees as particulates under this section.

2 “(4) As used in this section,[:]

3 “[*(a)*] ‘regulated pollutant’ means particulates, volatile organic com-
4 pounds, oxides of nitrogen, and sulfur dioxide.[: *and*]

5 “[*(b)*] ‘Consumer Price Index’ has the meaning given in 42 U.S.C. 7661a(b),
6 as in effect on June 20, 2007.]

7 **“SECTION 2.** ORS 468A.315, as amended by section 1 of this 2023 Act,
8 is amended to read:

9 “468A.315. (1) The fee schedule required under ORS 468.065 (2) for a
10 source subject to the federal operating permit program shall be based on a
11 schedule established by rule by the Environmental Quality Commission in
12 accordance with this section. Except for the additional fees under subsection
13 (2)(e) of this section and ORS 468A.345, this fee schedule shall be in lieu of
14 any other fee for a permit issued under ORS 468A.040, 468A.045 or 468A.155.
15 The fee schedule shall cover all reasonable direct and indirect costs of im-
16 plementing the federal operating permit program and shall consist of:

17 “(a) An emission fee of [~~\$95~~] **\$121** per ton of each regulated pollutant
18 emitted during the prior calendar year as determined under subsection (2)
19 of this section.

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

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

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

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

28 “(D) Department review of ambient monitoring networks installed by a
29 source.

30 “(E) Other distinct department activities created by a source or a group

1 of sources if the commission finds that the activities are unique and specific
2 and that additional rulemaking is necessary and will impose costs upon the
3 department that are not otherwise covered by federal operating permit pro-
4 gram fees.

5 “(c) A base fee of [~~\$12,504~~] **\$16,002** for a source subject to the federal op-
6 erating permit program.

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

13 “(b) The fee required by subsection (1)(a) of this section does not apply
14 to any emissions in excess of 7,000 tons per year of all regulated pollutants.
15 The department may not revise a major source’s plant site emission limit due
16 solely to payment of the fee on the basis of documented emissions.

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

20 “(A) Emission monitoring;

21 “(B) Material balances;

22 “(C) Emission factors;

23 “(D) Fuel use;

24 “(E) Production data; or

25 “(F) Other calculations.

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

29 “(e) The rules adopted under this section shall require an additional fee
30 for failure to pay, substantial underpayment of or late payment of emission

1 fees.

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

4 “(4) As used in this section, ‘regulated pollutant’ means particulates,
5 volatile organic compounds, oxides of nitrogen, and sulfur dioxide.”.

6 On page 4, delete lines 7 through 45.

7 On page 5, delete lines 1 through 14 and insert:

8 **“SECTION 4.** ORS 468A.315, as amended by sections 1 and 2 of this 2023
9 Act, is amended to read:

10 “468A.315. (1) The fee schedule required under ORS 468.065 (2) for a
11 source subject to the federal operating permit program shall be based on a
12 schedule established by rule by the Environmental Quality Commission in
13 accordance with this section. Except for the additional fees under subsection
14 [(2)(e)] **(3)(e)** of this section and ORS 468A.345, this fee schedule shall be in
15 lieu of any other fee for a permit issued under ORS 468A.040, 468A.045 or
16 468A.155. The fee schedule shall cover all reasonable direct and indirect costs
17 of implementing the federal operating permit program and shall consist of:

18 “(a) An emission fee of \$121 per ton of each regulated pollutant emitted
19 during the prior calendar year as determined under subsection [(2)] **(3)** of
20 this section.

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

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

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

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

29 “(D) Department review of ambient monitoring networks installed by a
30 source.

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

6 “(c) A base fee of \$16,002 for a source subject to the federal operating
7 permit program.

8 “(2) **Not more than once each calendar year, the commission may**
9 **increase the fees established under this section. The amount of the**
10 **annual increase may not exceed the anticipated increase in the cost**
11 **of administering the federal operating permit program or three per-**
12 **cent, whichever is lower, unless a larger increase is provided for in the**
13 **department’s legislatively approved budget.**

14 “[~~(2)(a)~~] (3)(a) The fee on emissions of regulated pollutants required under
15 this section shall be based on the amount of each regulated pollutant emitted
16 during the prior calendar year as documented by information provided by the
17 source in accordance with criteria adopted by the commission or, if the
18 source elects to pay the fee based on permitted emissions, the fee shall be
19 based on the emission limit for the plant site of the major source.

20 “(b) The fee required by subsection (1)(a) of this section does not apply
21 to any emissions in excess of 7,000 tons per year of all regulated pollutants.
22 The department may not revise a major source’s plant site emission limit due
23 solely to payment of the fee on the basis of documented emissions.

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

27 “(A) Emission monitoring;

28 “(B) Material balances;

29 “(C) Emission factors;

30 “(D) Fuel use;

1 “(E) Production data; or

2 “(F) Other calculations.

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

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

9 “[3] (4) The commission shall establish by rule the size fraction of total
10 particulates subject to emission fees as particulates under this section.

11 “[4] (5) As used in this section, ‘regulated pollutant’ means particulates,
12 volatile organic compounds, oxides of nitrogen, and sulfur dioxide.”.

13 After line 22, insert:

14 **“SECTION 6. (1) The Department of Environmental Quality shall**
15 **evaluate and make recommendations for alternative fee structures for**
16 **Oregon’s federal operating permit program. In conducting the evalu-**
17 **ation, the department shall:**

18 **“(a) Identify fee structures that require the owners or operators of**
19 **facilities subject to the federal operating permit program to pay fees**
20 **that are commensurate with the regulatory complexity of the facility**
21 **or permit.**

22 **“(b) Ensure that any recommended fee structures would result in**
23 **fees that are sufficient to cover all reasonable direct and indirect costs**
24 **of the federal operating permit program, as required by section 502(b)**
25 **of the federal Clean Air Act.**

26 **“(c) Review the fee structures of other state and local government**
27 **agencies that administer a federal operating permit program.**

28 **“(d) Solicit and consider input from owners or operators of facilities**
29 **subject to the federal operating permit program and program**
30 **stakeholders.**

1 **“(2) No later than December 31, 2023, the department shall submit**
2 **its findings and recommendations in a report, in the manner provided**
3 **by ORS 192.245, and may include recommendations for legislation, to**
4 **the interim committees of the Legislative Assembly related to the en-**
5 **vironment.**

6 **“(3) As used in this section, ‘Clean Air Act’ and ‘federal operating**
7 **permit program’ have the meanings given those terms in ORS**
8 **468A.300.”.**

9 In line 23, delete “6” and insert “7”.

10 On page 6, line 15, delete “7” and insert “8”.

11 In line 36, delete “8” and insert “9”.

12
