

Senate Bill 107

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Department of Environmental Quality)

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**.

Increases emission fees for pollutants from, and base fees for, major sources. Clarifies definition of "regulated pollutant."

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to emission fees for major sources; creating new provisions; amending ORS 468A.315; and
3 declaring an emergency.

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

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

6 468A.315. (1)*[(a) Beginning one year after the date of submittal of the federal operating permit*
7 *program to the Administrator of the United States Environmental Protection Agency,]* The fee schedule
8 required under ORS 468.065 (2) for a source subject to the federal operating permit program shall
9 be based on a schedule established **every two years** by rule by the Environmental Quality Com-
10 mission in accordance with this section. Except for the additional fee under subsection *[(2)(f)]* **(2)(e)**
11 of this section, this fee schedule shall be in lieu of any other fee for a permit issued under ORS
12 468A.040, 468A.045 or 468A.155. The fee schedule shall cover all reasonable direct and indirect costs
13 of implementing the federal operating permit program and shall consist of:

14 *[(A)]* **(a)** An emission fee of *[\$25]* **\$31** per ton of regulated *[pollutant]* **pollutants** emitted during
15 the prior calendar year as determined under subsection (2) of this section.

16 *[(B)]* **(b)** Fees for the following specific elements of the federal operating permit program:

17 *[(i)]* **(A)** Reviewing and acting upon applications for modifications to federal operating permits.

18 *[(ii)]* **(B)** Any activity related to permits required under ORS 468A.040 other than the federal
19 operating permit program.

20 *[(iii)]* **(C)** Department of Environmental Quality activities for sources not subject to the federal
21 operating permit program.

22 *[(iv)]* **(D)** Department review of ambient monitoring networks installed by a source.

23 *[(v)]* **(E)** Other distinct department activities created by a source or a group of sources if the
24 *[Environmental Quality]* commission finds that the activities are unique and specific and that addi-
25 tional rulemaking is necessary and will impose costs upon the department that are not otherwise
26 covered by federal operating permit program fees.

27 *[(C)]* **(c)** A base fee for a source subject to the federal operating permit program. This base fee
28 shall be no more than *[\$2,500, subject to increases as set forth in subparagraph (D) of this*
29 *paragraph]* **\$3,100**.

30 *[(D)]* **(d)** An annual increase **in the fees set forth in paragraphs (a) to (c) of this subsection**

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 by the percentage, if any, by which the Consumer Price Index exceeds the Consumer Price Index for
 2 the calendar year 1989 if the commission determines by rule that the increased [*fee is*] **fees are**
 3 necessary to cover all reasonable direct and indirect costs of implementing the federal operating
 4 permit program.

5 *[(b) If the administrator grants interim or partial approval of the federal operating permit program*
 6 *and the commission determines the interim or partial approval results in a reduction in the reasonable*
 7 *direct and indirect costs of developing and administering the program to less than the level supported*
 8 *by the fee, the commission shall reduce the emission fee established by this section commensurate with*
 9 *the reduction in the department's responsibilities under Title V of the Clean Air Act. The reduced fee*
 10 *shall apply until the commission determines that the cause for the interim or partial approval has been*
 11 *eliminated.]*

12 (2)(a) The fee on emissions of regulated pollutants required under this section shall be based on
 13 the amount of each regulated pollutant emitted during the prior calendar year as documented by
 14 information provided by the 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 based on the emission
 16 limit for the plant site of the major source.

17 *[(b) If the fee on PM10 emissions is based on the plant site emission limit for a source that does*
 18 *not have a plant site emission limit for PM10, the department may assess the fee on the plant site*
 19 *emission limit for total suspended particulates in lieu of PM10.]*

20 *[(c) (b) The fee required by [this] subsection (1)(a) of this section [shall] does not apply to any*
 21 *emissions of any regulated pollutant [or total suspended particulates, whether permitted or docu-*
 22 *mented,] in excess of 4,000 tons per year of that pollutant. [There shall be no revision of] The de-*
 23 **partment may not revise** a major source's plant site emission limit due solely to payment of the
 24 fee on the basis of documented emissions.

25 *[(d) (c) The commission shall establish by rule criteria for the acceptability and verifiability*
 26 *of information related to emissions as documented, including but not limited to the use of:*

- 27 (A) Emission monitoring;
- 28 (B) Material balances;
- 29 (C) Emission factors;
- 30 (D) Fuel use;
- 31 (E) Production data; or
- 32 (F) Other calculations.

33 *[(e) (d) The department shall accept reasonably accurate information that complies with the*
 34 *criteria established by the commission as documentation of emissions.*

35 *[(f) (e) The rules adopted under this section shall require an additional fee for failure to pay,*
 36 *substantial underpayment of or late payment of emission fees.*

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

39 [(3)] (4) As used in this section:

40 (a) "Regulated pollutant" [*has the meaning given in section 502(b) of the Clean Air Act*] **means**
 41 **particulates, volatile organic compounds, oxides of nitrogen and sulfur dioxide;** and

42 (b) "Consumer Price Index" has the meaning given in [*section 502(b) of the Clean Air Act.*] **42**
 43 **U.S.C. 7661a(b), as in effect on the effective date of this 2007 Act.**

44 **SECTION 2. (1) The amendments to ORS 468A.315 (1)(a) by section 1 of this 2007 Act**
 45 **apply only to emission fees assessed for calendar years beginning on or after January 1, 2006.**

1 **(2) The amendments to ORS 468A.315 (1)(c) by section 1 of this 2007 Act apply only to**
2 **base fees assessed on or after July 1, 2007.**

3 **(3) If this 2007 Act becomes effective after July 1, 2007, the Department of Environmental**
4 **Quality shall issue a supplemental billing for the additional fees owing under ORS 468A.315**
5 **(1)(a) and (c), as amended by section 1 of this 2007 Act, for fees assessed between July 1, 2007,**
6 **and the effective date of this 2007 Act.**

7 **SECTION 3.** **This 2007 Act being necessary for the immediate preservation of the public**
8 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
9 **on its passage.**

10