

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action:	Do Pass
Vote:	3 - 1 - 1
Yeas:	Hass, Prozanski, Dingfelder
Nays:	Atkinson
Exc.:	Boquist
Prepared By:	Beth Herzog, Administrator
Meeting Dates:	1/29, 2/19

WHAT THE MEASURE DOES: Removes the requirement that the Environmental Quality Commission establish the fee schedule every two years for sources subject to the federal operating permit program under the Clean Air Act. Aligns the period for determining the Consumer Price Index with the federal definition. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Technical fix from 2007's SB 107
- Unintended consequence
- Allows for more than one rulemaking per biennium

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Title V of the 1990 Federal Clean Air Act requires each state to develop a comprehensive operating permit program for industrial facilities with the highest air pollution emission levels. The Title V Permit Program places a greater responsibility on businesses for monitoring, reporting and certifying compliance with the conditions of the permit. Federal and state law require that the Title V fees collected pay for 100 percent of the program's operating cost. It also allows for an annual fee increase based on the Consumer Price Index (CPI). Approximately 130 sources are currently permitted under the Oregon Title V Operating Permit program.

During the 2007 session the Legislature passed SB 107 which increased fees to provide funding for the Title V Permit Program. In a streamlining effort, SB 107 changed the rulemaking schedule for CPI fee increases from once per year to once per biennium, resulting in the Environmental Quality Commission setting a two-year fee schedule. DEQ has always increased fees and calibrated them to inflation by the percentage that the CPI for the calendar year exceeds the 1989 base-year CPI. The federal Clean Air Act identifies calendar year as the average CPI from September through August while Oregon's statute simply provides "calendar year," commonly understood to be January 1 through December 31. By switching to the Clean Air Act definition of calendar year, DEQ could establish a two year fee schedule and collect the fees as intended by Senate Bill 107. During the hearing DEQ expressed their plan to continue the cost saving activity of CPI rulemaking once every two years but needs consecutive year rulemaking in 2009 to move to the new calendar year schedule.

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This summary has not been adopted or officially endorsed by action of the committee.