

A-Engrossed
Senate Bill 79

Ordered by the Senate March 9
Including Senate Amendments dated March 9

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 John A. Kitzhaber 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.

Requires Environmental Quality Commission to establish greenhouse gas emissions fees for sources subject to federal operating permit program.

Declares emergency, effective on passage.

A BILL FOR AN ACT

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

12 (a) An emission fee of **\$31** per ton of each regulated pollutant emitted during the prior calendar
13 year as determined under subsection (2) of this section, subject to annual fee increases as set forth
14 in paragraph [(d)] (e) of this subsection. [*The following emission fees apply:*]

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

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

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

18 (b) Fees for the following specific elements of the federal operating permit program:

19 (A) Reviewing and acting upon applications for modifications to federal operating permits.

20 (B) Any activity related to permits required under ORS 468A.040 other than the federal operat-
21 ing permit program.

22 (C) Department of Environmental Quality activities for sources not subject to the federal oper-
23 ating permit program.

24 (D) Department review of ambient monitoring networks installed by a source.

25 (E) Other distinct department activities created by a source or a group of sources if the com-
26 mission finds that the activities are unique and specific and that additional rulemaking is necessary

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 and will impose costs upon the department that are not otherwise covered by federal operating
2 permit program fees.

3 (c) A base fee for a source subject to the federal operating permit program. This base fee shall
4 be no more than *[the fees set forth in subparagraphs (A) to (D) of this paragraph,]* **\$4,100 for the**
5 **period of November 15, 2010, through November 14, 2011, and for each annual period there-**
6 **after**, subject to increases as set forth in paragraph [(d)] (e) of this subsection.[:]

7 [(A) \$2,700 for the period of November 15, 2007, through November 14, 2008.]

8 [(B) \$2,900 for the period of November 15, 2008, through November 14, 2009.]

9 [(C) \$3,100 for the period of November 15, 2009, through November 14, 2010.]

10 [(D) \$4,100 for the period of November 15, 2010, through November 14, 2011, and for each annual
11 period thereafter.]

12 (d) A greenhouse gas emissions fee for a source that meets or exceeds the greenhouse
13 gas emissions threshold established by the commission by rule for the federal operating
14 permit program. The greenhouse gas emissions fee shall be for the period of November 15,
15 2011, through November 14, 2012, and for each annual period thereafter. The greenhouse gas
16 emissions fee shall be no more than the fees set forth in subparagraphs (A) and (B) of this
17 paragraph, subject to increases as set forth in paragraph (e) of this subsection, as follows:

18 (A) \$4,000 for a source that is subject to the federal operating permit program due to the
19 source's emission of greenhouse gases and not the emission of any regulated pollutant.

20 (B) \$600 for a source that is subject to the federal operating permit program due to the
21 source's emission of greenhouse gases and the emission of one or more regulated pollutants.

22 [(d)] (e) An annual increase in the fees set forth in paragraphs (a) to [(c)] (d) of this subsection
23 by the percentage, if any, by which the Consumer Price Index exceeds the Consumer Price Index
24 as of the close of the 12-month period ending on August 31, 1989, if the commission determines by
25 rule that the increased fees are necessary to cover all reasonable direct and indirect costs of im-
26 plementing the federal operating permit program.

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

32 (b) The fee required by subsection (1)(a) of this section does not apply to any emissions in excess
33 of 4,000 tons per year of any regulated pollutant through calendar year 2010 and in excess of 7,000
34 tons per year of all regulated pollutants for each calendar year thereafter. The department may not
35 revise a major source's plant site emission limit due solely to payment of the fee on the basis of
36 documented emissions.

37 (c) The commission shall establish by rule criteria for the acceptability and verifiability of in-
38 formation related to emissions as documented, including but not limited to the use of:

39 (A) Emission monitoring;

40 (B) Material balances;

41 (C) Emission factors;

42 (D) Fuel use;

43 (E) Production data; or

44 (F) Other calculations.

45 (d) The department shall accept reasonably accurate information that complies with the criteria

1 established by the commission as documentation of emissions.

2 (e) The rules adopted under this section shall require an additional fee for failure to pay, sub-
3 stantial underpayment of or late payment of emission fees.

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

6 (4) As used in this section:

7 (a) "Regulated pollutant" means particulates, volatile organic compounds, oxides of nitrogen,
8 and sulfur dioxide.[: *and*]

9 (b) "Consumer Price Index" has the meaning given in 42 U.S.C. 7661a(b), as in effect on June
10 20, 2007.

11 (c) "**Greenhouse gas**" means **carbon dioxide, methane, nitrous oxide, hydrofluorocarbons,**
12 **perfluorocarbons and sulfur hexafluoride.**

13 **SECTION 2. This 2011 Act being necessary for the immediate preservation of the public**
14 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
15 **on its passage.**

16
