

SB 1541 -1, -2, -3, -4 STAFF MEASURE SUMMARY

Senate Committee On Environment and Natural Resources

Prepared By: Beth Patrino, LPRO Analyst

Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 2/12, 2/14

WHAT THE MEASURE DOES:

Authorizes the Environmental Quality Commission (EQC) to adopt a program and rules to reduce public health risks of emissions of toxic air contaminants from industrial and commercial sources. Prohibits requiring a source to obtain a permit under program unless source meets specified conditions. Establishes criteria upon which rules adopted under Act must base public health risk. Authorizes sources subject to program to evaluate public health risk using ambient monitoring as an alternative to computer modeling. Prohibits Department of Environmental Quality (DEQ) from requiring a source that employs toxics best available control technology in compliance with the program to undertake additional measures to limit or reduce toxic air contaminants emissions. Stipulates the technology must be an emissions limitation based on the maximum degree of reduction that is feasible, determined for each source on a case-by-case basis taking into consideration specified factors. Prohibits imposition of requirements on one source based on emissions from other sources. Requires all public meetings related to rules be organized and funded by DEQ. Prohibits program and related rules from: (1) giving rise to a private right of action, (2) creating a standard of care for imposing liability in any private action, and (3) being introduced as evidence in any civil litigation on the issue of negligence, nuisance, trespass, injuries, or damages. Authorizes EQC to include in other authorized fee schedules a fee reasonably calculated to cover cost of program. Declares emergency, effective upon passage.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Replaces measure. Defines terms. Authorizes the Environmental Quality Commission to adopt program and rules to reduce public health risks from emissions of toxic air contaminants from industrial and commercial sources. Prohibits requiring a source to obtain a permit under program unless source is otherwise subject to regulation under specified state or federal laws and the total demonstrated health risk from emissions exceeds specified limits. Authorizes person in control of air contamination source to elect to have emissions evaluated and regulated based on modeling of specified factors. Authorizes person in control of air contamination source to elect to have public health risks from emissions evaluated using air monitoring under specified circumstances. Prohibits Department of Environmental Quality (DEQ) from requiring an air contamination source that employs toxics best available control technology on all significant emission units to undertake additional measures to limit or reduce toxic air contaminant emissions unless public health risks from such emissions are greater than four times the benchmark for excess lifetime cancer risk or the benchmark for excess non-cancer risk. Describes toxics best available technology control. Authorizes EQC to establish a pilot program for evaluating and controlling public health risks from toxic air contaminant emissions from multiple stationary sources. Restricts program to one area in the state in a county with a population exceeding 500,000 people and identifies selection criteria. Establishes Clean Communities Fund. Authorizes EQC to include in other authorized fee schedules a fee reasonably calculated to cover cost of program. Declares emergency, effective upon passage.

-2 Replaces measure.

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Authorizes person in control of air contamination source to elect to have emissions evaluated and regulated based on modeling of specified factors. Authorizes person in control of air contamination source to elect to have public health risks from emissions evaluated using air monitoring under specified circumstances.

Prohibits Department of Environmental Quality (DEQ) from requiring an air contamination source that employs toxics best available control technology on all significant emission units to undertake additional measures to limit or reduce toxic air contaminant emissions unless public health risks from such emissions are greater than four times the benchmark for excess lifetime cancer risk or two times the benchmark for excess non-cancer risk. Describes toxics best available technology control.

Authorizes EQC to establish a pilot program for evaluating and controlling public health risks from toxic air contaminant emissions from multiple stationary sources. Restricts program to one area in the state in a county with a population exceeding 500,000 people and identifies selection criteria and requirement for risk mitigation plan to be submitted to DEQ in specified circumstances. Establishes Clean Communities Fund and requires payment into fund if DEQ determines, considering cost and available technology, that a risk mitigation plan is not feasible because reasonable action to reduce public health risks are not available. Specifies considerations by DEQ to determine amount of payment.

Authorizes, until January 1, 2029, DEQ to regulate an existing source under this Act based on a benchmark for excess non-cancer risk that is adjusted to equal a Hazard Index number other than 5 based on DEQ determination that a source emits a material amount of one or more toxic air contaminants identified by EQC in rule to have specified health effects; adjusted benchmark may be equal to a Hazard Index number determined by DEQ based on standards and criteria adopted by EQC in rule, but may be no less than a number of 3.

Effective January 1, 2029, sets benchmark for excess non-cancer risk for an existing air contamination source as established by EQC by rule.

Requires DEQ to report to interim legislative committee related to the environment, no later than September 15, 2026, on costs and benefits of regulating existing sources based on benchmark for excess non-cancer risk of 5 and on any adjusted benchmarks.

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BACKGROUND:

On April 6, 2016, Governor Brown directed the Oregon Department of Environmental Quality (DEQ) and the Oregon Health Authority (OHA) to develop a health risk-based air toxics permitting program. According to DEQ, the goal of this program, known as "Cleaner Air Oregon," is to "evaluate potential health risks to people near commercial and industrial facilities that emit regulated air toxics, and ultimately reduce those risks below health-based standards. Affected facilities could include some that are not currently permitted for their air contaminant emissions, in addition to those that already have air quality permits." The agencies have undertaken a rulemaking process that is expected to conclude in July, 2018, when the Environmental Quality Commission considers adoption of the proposed permitting rules.