

DRAFT

SUMMARY

Lowers benchmark for excess lifetime cancer risk level for existing air contamination sources from 50 in one million to 25 in one million. Lowers Hazard Index number used for calculation of benchmark for excess noncancer risk for existing air contamination sources from 5 to 1.

Repeals statute limiting local community right to know regulatory programs.

Refers Act to people for their approval or rejection at next general election.

A BILL FOR AN ACT

1
2 Relating to hazardous substances; amending ORS 453.307, 468A.335, 468A.343
3 and 468A.345; repealing ORS 453.370 and sections 7, 8, 9 and 10, chapter
4 102, Oregon Laws 2018; and providing that this Act shall be referred to
5 the people for their approval or rejection.

6 Whereas toxic and hazardous substances, and toxic air contaminant
7 emissions, are a public health risk; and

8 Whereas exposure to toxic and hazardous substances and toxic air con-
9 taminant emissions increases incidents of cancer, heart disease, respiratory
10 disease and other illnesses and health conditions; and

11 Whereas in order to protect the public health and safety, emissions of
12 toxic air contaminants should be limited; and

13 Whereas Oregonians should not be prevented from receiving information
14 about the use, storage, release, possession or composition of hazardous or
15 toxic substances at industrial, manufacturing and other facilities; now,
16 therefore,

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

1 **SECTION 1.** ORS 468A.335 is amended to read:

2 468A.335. As used in ORS 468A.335 to 468A.343 [*and section 7, chapter 102,*
3 *Oregon Laws 2018*]:

4 (1) “Benchmark for excess lifetime cancer risk” means:

5 (a) For a new or reconstructed air contamination source, an excess life-
6 time cancer risk level of 10 in one million.

7 (b) For an existing air contamination source, an excess lifetime cancer
8 risk level of [~~50~~] **25** in one million.

9 (2) “Benchmark for excess noncancer risk” means:

10 (a) For a new or reconstructed air contamination source, a benchmark
11 equal to a Hazard Index number of 1.

12 (b) For an existing air contamination source, a benchmark equal to a
13 Hazard Index number of [~~5~~] **1**.

14 (3) “Hazard Index number” means a number equal to the sum of the haz-
15 ard quotients attributable to toxic air contaminants that have noncancer ef-
16 fects on the same target organs or organ systems.

17 (4) “Hazard quotient” means a calculated numerical value that is used to
18 evaluate noncancer health risk from exposure to a single toxic air contam-
19 inant. The calculated numerical value is the ratio of the air concentration
20 of a toxic air contaminant to the noncancer risk-based concentration at
21 which no serious adverse human health effects are expected to occur.

22 (5) “Reconstructed” means an individual project constructed at an air
23 contamination source that, once constructed, increases the hourly capacity
24 of any changed equipment to emit and where the fixed capital cost of new
25 components exceeds 50 percent of the fixed capital cost that would have been
26 required to construct a comparable new source.

27 **SECTION 2.** ORS 453.370 and sections 7, 8, 9 and 10, Chapter 102,
28 **Oregon Laws 2018, are repealed.**

29 **SECTION 3.** ORS 453.307 is amended to read:

30 453.307. As used in ORS 453.307 to 453.414:

31 [(1) “Community right to know regulatory program” or “local program”

1 *means any law, rule, ordinance, regulation or charter amendment established,*
2 *enforced or enacted by a local government that requires an employer to collect*
3 *or report information relating to the use, storage, release, possession or com-*
4 *position of hazardous substances and toxic substances if a primary intent of*
5 *the law, rule, ordinance, regulation or charter amendment is the public dis-*
6 *tribution of the information.]*

7 [(2)] (1) “Emergency service personnel” includes those entities providing
8 emergency services as defined in ORS 401.025.

9 [(3)] (2) “Employer” means:

10 (a) Any person operating a facility that is included in one or more of the
11 21 standard industrial classification categories in Appendix B of the Natural
12 Resources Defense Council v. Train Consent Decree of June 8, 1976 (8 E.R.C.
13 2120); or

14 (b) Any person operating a facility designated by the State Fire Marshal.

15 [(4)] (3) “Fire district” means any agency having responsibility for pro-
16 viding fire protection services.

17 [(5)] (4) “Hazardous substance” means:

18 (a) Any substance designated as hazardous by the Director of the De-
19 partment of Consumer and Business Services or by the State Fire Marshal;

20 (b) Any substance for which a material safety data sheet is required by
21 the Director of the Department of Consumer and Business Services under
22 ORS 654.035 and which appears on the list of Threshold Limit Values for
23 Chemical Substances and Physical Agents in the Work Environment by the
24 American Conference of Governmental Industrial Hygienists; or

25 (c) Radioactive waste and material as defined in ORS 469.300 and radio-
26 active substance as defined in ORS 453.005.

27 [(6)] (5) “Health professional” means a physician licensed under ORS
28 chapter 677, naturopathic physician licensed under ORS chapter 685, physi-
29 cian assistant licensed under ORS 677.505 to 677.525, registered nurse, in-
30 dustrial hygienist, toxicologist, epidemiologist or emergency medical services
31 provider.

1 [(7)] (6) “Law enforcement agency” has the meaning given that term in
2 ORS 181A.010.

3 [(8)] (7) “Local government” means a city, town, county, regional au-
4 thority or other political subdivision of this state.

5 [(9)] (8) “Person” includes individuals, corporations, associations, firms,
6 partnerships, joint stock companies, public and municipal corporations, pol-
7 itical subdivisions, the state and any agency thereof, and the federal gov-
8 ernment and any agency thereof.

9 [(10)] (9) “Trade secret” has the meaning given that term in ORS 192.345
10 (2).

11 **SECTION 4.** ORS 468A.343 is amended to read:

12 468A.343. (1) The Department of Environmental Quality shall hold any
13 public meeting required by rules adopted pursuant to ORS 468A.335 to
14 468A.343 [*and section 7, chapter 102, Oregon Laws 2018*]. At least one repre-
15 sentative of a person in control of an air contamination source for which a
16 permit or plan will be discussed at a public meeting required by a rule
17 adopted under ORS 468A.335 to 468A.343 [*and section 7, chapter 102, Oregon*
18 *Laws 2018,*] must appear at the meeting.

19 (2) If the Environmental Quality Commission adopts a program and rules
20 pursuant to ORS 468A.337 or a pilot program pursuant to ORS 468A.339, the
21 programs and rules and their applicability to any air contamination source
22 described in this section do not create a new standard of care or otherwise
23 alter an existing standard of care for imposing liability in any private action.

24 **SECTION 5.** ORS 468A.345 is amended to read:

25 468A.345. (1) The fee schedules authorized under ORS 468.065 (2) for per-
26 mits described in subsection (2) of this section may include fees that are
27 reasonably calculated to cover the direct and indirect costs of the Depart-
28 ment of Environmental Quality and the Environmental Quality Commission
29 in developing and implementing, under ORS 468A.335 to 468A.343 [*and section*
30 *7, chapter 102, Oregon Laws 2018*], a program and rules described in ORS
31 468A.337 or a pilot program described in ORS 468A.339.

1 (2) The fees authorized by subsection (1) of this section shall:

2 (a) Apply for any class of air contamination sources classified pursuant
3 to ORS 468A.050 for which a person is required to obtain a permit under ORS
4 468A.040 or 468A.155 or is subject to the federal operating permit program
5 pursuant to ORS 468A.310; and

6 (b) Be in addition to, and not in lieu of, any other fee required under ORS
7 468.065 or 468A.315.

8 (3) Not more than once each calendar year, the Environmental Quality
9 Commission may increase the fees authorized under this section. The amount
10 of the annual increase may not exceed the anticipated increase in the cost
11 of implementing ORS 468A.335 to 468A.343 [*and section 7, chapter 102, Oregon*
12 *Laws 2018,*] or three percent, whichever is lower, unless a larger increase is
13 provided for in the Department of Environmental Quality's legislatively ap-
14 proved budget.

15 (4)(a) Any rule adopted under ORS 468.065 (2) regarding late payment of
16 emission fees by an air contamination source issued a permit under ORS
17 468A.040 or 468A.155 shall apply in the same manner to an air contamination
18 source issued a permit under ORS 468A.040 or 468A.155 for late payment of
19 fees under this section.

20 (b) Any rule adopted under ORS 468A.315 regarding late payment of
21 emission fees by sources subject to the federal operating permit program
22 shall apply in the same manner to sources subject to the federal operating
23 permit program for late payment of fees under this section.

24 (5) The department may, in the manner provided in ORS 468.070, refuse
25 to issue, suspend, revoke or refuse to renew a permit issued under ORS
26 468A.040 or 468A.155 or under the federal operating permit program pursuant
27 to ORS 468A.310 for failure to comply with the provisions of this section.

28 **SECTION 6.** This 2020 Act shall be submitted to the people for their
29 approval or rejection at the next regular general election held throughout
30 this state.