

HOUSE AMENDMENTS TO HOUSE BILL 3229

By JOINT COMMITTEE ON WAYS AND MEANS

June 21

- 1 On page 1 of the printed bill, delete lines 5 through 28.
2 Delete page 2.
3 On page 3, delete lines 1 through 43 and insert:
4 “**SECTION 1.** ORS 468A.315 is amended to read:
5 “468A.315. (1) The fee schedule required under ORS 468.065 (2) for a source subject to the fed-
6 eral operating permit program shall be based on a schedule established by rule by the Environ-
7 mental Quality Commission in accordance with this section. Except for the additional fees under
8 subsection (2)(e) of this section and ORS 468A.345, this fee schedule shall be in lieu of any other fee
9 for a permit issued under ORS 468A.040, 468A.045 or 468A.155. The fee schedule shall cover all
10 reasonable direct and indirect costs of implementing the federal operating permit program and shall
11 consist of:
12 “(a) An emission fee **of \$95** 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) 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 oper-
21 ating permit program.
22 “(C) Department of Environmental Quality activities for sources not subject to the federal op-
23 erating 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
27 and will impose costs upon the department that are not otherwise covered by federal operating
28 permit program fees.
29 “(c) A base fee **of \$12,504** for a source subject to the federal operating permit program. [*This*
30 *base fee shall be no more than the fees set forth in subparagraphs (A) to (D) of this paragraph, subject*
31 *to increases as set forth in paragraph (d) of this subsection:*]
32 “[*(A) \$2,700 for the period of November 15, 2007, through November 14, 2008.*]
33 “[*(B) \$2,900 for the period of November 15, 2008, through November 14, 2009.*]
34 “[*(C) \$3,100 for the period of November 15, 2009, through November 14, 2010.*]
35 “[*(D) \$4,100 for the period of November 15, 2010, through November 14, 2011, and for each annual*

1 *period thereafter.]*

2 *“(d) An annual increase in the fees set forth in paragraphs (a) to (c) of this subsection by the*
3 *percentage, if any, by which the Consumer Price Index exceeds the Consumer Price Index as of the*
4 *close of the 12-month period ending on August 31, 1989, if the commission determines by rule that the*
5 *increased fees are necessary to cover all reasonable direct and indirect costs of implementing the federal*
6 *operating permit program.]*

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

12 *“(b) The fee required by subsection (1)(a) of this section does not apply to any emissions in ex-*
13 *cess of [4,000 tons per year of any regulated pollutant through calendar year 2010 and in excess of]*
14 *7,000 tons per year of all regulated pollutants. [for each calendar year thereafter.] The department*
15 *may not revise a major source’s plant site emission limit due solely to payment of the fee on the*
16 *basis of documented emissions.*

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

19 *“(A) Emission monitoring;*

20 *“(B) Material balances;*

21 *“(C) Emission factors;*

22 *“(D) Fuel use;*

23 *“(E) Production data; or*

24 *“(F) Other calculations.*

25 *“(d) The department shall accept reasonably accurate information that complies with the crite-*
26 *ria established by the commission as documentation of emissions.*

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

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

31 *“(4) As used in this section,[:]*

32 *“[(a)] ‘regulated pollutant’ means particulates, volatile organic compounds, oxides of nitrogen,*
33 *and sulfur dioxide.[: and]*

34 *“[(b) ‘Consumer Price Index’ has the meaning given in 42 U.S.C. 7661a(b), as in effect on June 20,*
35 *2007.]*

36 *“**SECTION 2.** ORS 468A.315, as amended by section 1 of this 2023 Act, is amended to read:*

37 *“468A.315. (1) The fee schedule required under ORS 468.065 (2) for a source subject to the fed-*
38 *eral operating permit program shall be based on a schedule established by rule by the Environ-*
39 *mental Quality Commission in accordance with this section. Except for the additional fees under*
40 *subsection (2)(e) of this section and ORS 468A.345, this fee schedule shall be in lieu of any other fee*
41 *for a permit issued under ORS 468A.040, 468A.045 or 468A.155. The fee schedule shall cover all*
42 *reasonable direct and indirect costs of implementing the federal operating permit program and shall*
43 *consist of:*

44 *“(a) An emission fee of [\$95] **\$121** per ton of each regulated pollutant emitted during the prior*
45 *calendar year as determined under subsection (2) of this section.*

1 “(b) Fees for the following specific elements of the federal operating permit program:
2 “(A) Reviewing and acting upon applications for modifications to federal operating permits.
3 “(B) Any activity related to permits required under ORS 468A.040 other than the federal oper-
4 ating permit program.
5 “(C) Department of Environmental Quality activities for sources not subject to the federal op-
6 erating permit program.
7 “(D) Department review of ambient monitoring networks installed by a source.
8 “(E) Other distinct department activities created by a source or a group of sources if the com-
9 mission finds that the activities are unique and specific and that additional rulemaking is necessary
10 and will impose costs upon the department that are not otherwise covered by federal operating
11 permit program fees.
12 “(c) A base fee of [~~\$12,504~~] **\$16,002** for a source subject to the federal operating permit program.
13 “(2)(a) The fee on emissions of regulated pollutants required under this section shall be based
14 on the amount of each regulated pollutant emitted during the prior calendar year as documented
15 by information provided by the source in accordance with criteria adopted by the commission or, if
16 the source elects to pay the fee based on permitted emissions, the fee shall be based on the emission
17 limit for the plant site of the major source.
18 “(b) The fee required by subsection (1)(a) of this section does not apply to any emissions in ex-
19 cess of 7,000 tons per year of all regulated pollutants. The department may not revise a major
20 source’s plant site emission limit due solely to payment of the fee on the basis of documented
21 emissions.
22 “(c) The commission shall establish by rule criteria for the acceptability and verifiability of in-
23 formation related to emissions as documented, including but not limited to the use of:
24 “(A) Emission monitoring;
25 “(B) Material balances;
26 “(C) Emission factors;
27 “(D) Fuel use;
28 “(E) Production data; or
29 “(F) Other calculations.
30 “(d) The department shall accept reasonably accurate information that complies with the crite-
31 ria established by the commission as documentation of emissions.
32 “(e) The rules adopted under this section shall require an additional fee for failure to pay, sub-
33 stantial underpayment of or late payment of emission fees.
34 “(3) The commission shall establish by rule the size fraction of total particulates subject to
35 emission fees as particulates under this section.
36 “(4) As used in this section, ‘regulated pollutant’ means particulates, volatile organic compounds,
37 oxides of nitrogen, and sulfur dioxide.”
38 On page 4, delete lines 7 through 45.
39 On page 5, delete lines 1 through 14 and insert:
40 “**SECTION 4.** ORS 468A.315, as amended by sections 1 and 2 of this 2023 Act, is amended to
41 read:
42 “468A.315. (1) The fee schedule required under ORS 468.065 (2) for a source subject to the fed-
43 eral operating permit program shall be based on a schedule established by rule by the Environ-
44 mental Quality Commission in accordance with this section. Except for the additional fees under
45 subsection [(2)(e)] **(3)(e)** of this section and ORS 468A.345, this fee schedule shall be in lieu of any

1 other fee for a permit issued under ORS 468A.040, 468A.045 or 468A.155. The fee schedule shall
2 cover all reasonable direct and indirect costs of implementing the federal operating permit program
3 and shall consist of:

4 “(a) An emission fee of \$121 per ton of each regulated pollutant emitted during the prior cal-
5 endar year as determined under subsection [(2)] (3) of this section.

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

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

8 “(B) Any activity related to permits required under ORS 468A.040 other than the federal oper-
9 ating permit program.

10 “(C) Department of Environmental Quality activities for sources not subject to the federal op-
11 erating permit program.

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

13 “(E) Other distinct department activities created by a source or a group of sources if the com-
14 mission finds that the activities are unique and specific and that additional rulemaking is necessary
15 and will impose costs upon the department that are not otherwise covered by federal operating
16 permit program fees.

17 “(c) A base fee of \$16,002 for a source subject to the federal operating permit program.

18 “(2) **Not more than once each calendar year, the commission may increase the fees es-
19 tablished under this section. The amount of the annual increase may not exceed the antic-
20 ipated increase in the cost of administering the federal operating permit program or three
21 percent, whichever is lower, unless a larger increase is provided for in the department’s
22 legislatively approved budget.**

23 “[2)(a)] (3)(a) The fee on emissions of regulated pollutants required under this section shall be
24 based on the amount of each regulated pollutant emitted during the prior calendar year as docu-
25 mented by information provided by the source in accordance with criteria adopted by the commis-
26 sion or, if the source elects to pay the fee based on permitted emissions, the fee shall be based on
27 the emission limit for the plant site of the major source.

28 “(b) The fee required by subsection (1)(a) of this section does not apply to any emissions in ex-
29 cess of 7,000 tons per year of all regulated pollutants. The department may not revise a major
30 source’s plant site emission limit due solely to payment of the fee on the basis of documented
31 emissions.

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

34 “(A) Emission monitoring;

35 “(B) Material balances;

36 “(C) Emission factors;

37 “(D) Fuel use;

38 “(E) Production data; or

39 “(F) Other calculations.

40 “(d) The department shall accept reasonably accurate information that complies with the crite-
41 ria established by the commission as documentation of emissions.

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

44 “[3)] (4) The commission shall establish by rule the size fraction of total particulates subject
45 to emission fees as particulates under this section.

1 “[4] (5) As used in this section, ‘regulated pollutant’ means particulates, volatile organic com-
2 pounds, oxides of nitrogen, and sulfur dioxide.”.

3 After line 22, insert:

4 **“SECTION 6. (1) The Department of Environmental Quality shall evaluate and make**
5 **recommendations for alternative fee structures for Oregon’s federal operating permit pro-**
6 **gram. In conducting the evaluation, the department shall:**

7 **“(a) Identify fee structures that require the owners or operators of facilities subject to**
8 **the federal operating permit program to pay fees that are commensurate with the regulatory**
9 **complexity of the facility or permit.**

10 **“(b) Ensure that any recommended fee structures would result in fees that are sufficient**
11 **to cover all reasonable direct and indirect costs of the federal operating permit program, as**
12 **required by section 502(b) of the federal Clean Air Act.**

13 **“(c) Review the fee structures of other state and local government agencies that admin-**
14 **ister a federal operating permit program.**

15 **“(d) Solicit and consider input from owners or operators of facilities subject to the fed-**
16 **eral operating permit program and program stakeholders.**

17 **“(2) No later than December 31, 2023, the department shall submit its findings and rec-**
18 **ommendations in a report, in the manner provided by ORS 192.245, and may include recom-**
19 **mendations for legislation, to the interim committees of the Legislative Assembly related to**
20 **the environment.**

21 **“(3) As used in this section, ‘Clean Air Act’ and ‘federal operating permit program’ have**
22 **the meanings given those terms in ORS 468A.300.”.**

23 In line 23, delete “6” and insert “7”.

24 On page 6, line 15, delete “7” and insert “8”.

25 In line 36, delete “8” and insert “9”.

26