

Requested by Representative DEXTER (at the request of Neighbors for Clean Air)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2396**

1 Delete lines 4 through 21 of the printed bill and insert:

2 **“SECTION 1. Sections 2 and 3 of this 2023 Act are added to and**
3 **made a part of ORS chapter 468A.**

4 **“SECTION 2. As used in this section and section 3 of this 2023 Act:**

5 **“(1) ‘Attract’ means to directly or indirectly cause a mobile source**
6 **to travel to, operate at or travel from an indirect source.**

7 **“(2) ‘Carbon dioxide equivalent’ means the amount of carbon**
8 **dioxide by weight that would produce the same global warming impact**
9 **as a given weight of another greenhouse gas.**

10 **“(3) ‘Diesel-powered’ means powered by a compression ignition en-**
11 **gine.**

12 **“(4) ‘Distribution warehouse’ means a fulfillment center, parcel hub**
13 **or parcel sorting facility.**

14 **“(5) ‘Fulfillment center’ means a facility whose primary purpose is**
15 **storage and distribution of goods to consumers or end users, either**
16 **directly or through a parcel hub.**

17 **“(6) ‘Indirect source’ means a facility, building, structure, installa-**
18 **tion, distribution warehouse, real property, road or highway which**
19 **attracts, or may attract, mobile sources of pollution.**

20 **“(7) ‘Indirect source review program’ means the facility-by-facility**
21 **review of existing, new or modified indirect sources.**

1 “(8) ‘Mobile source’ includes motor vehicles and nonroad vehicles.

2 “(9) ‘Motor vehicle’ means any self-propelled vehicle designed for
3 transporting persons or property on a street or highway.

4 “(10) ‘Nonroad vehicle’ means a vehicle powered by an internal
5 combustion engine that is not a motor vehicle or a vehicle used solely
6 for competition.

7 “(11) ‘NOx’ means all oxides of nitrogen.

8 “(12) ‘Parcel hub’ means a last-mile facility or similar facility whose
9 primary purpose is processing or redistributing goods for delivery di-
10 rectly to consumers or end users by moving a shipment from one mode
11 of transport to a vehicle with a gross vehicle weight rating of 10,000
12 pounds or less.

13 “(13) ‘Parcel sorting facility’ means a facility whose primary pur-
14 pose is sorting or redistributing goods from a fulfillment center to a
15 parcel hub.

16 “(14) ‘PM2.5’ means finely divided solid or liquid material, including
17 condensable particulate, other than uncombined water, with an aero-
18 dynamic diameter less than or equal to a nominal 2.5 micrometers.

19 “SECTION 3. (1) The Environmental Quality Commission shall es-
20 tablish by rule an indirect source review program. The program es-
21 tablished under this section may require the owner or operator of an
22 indirect source to obtain a permit issued by the Department of Envi-
23 ronmental Quality.

24 “(2)(a) The program established under this section applies only to:

25 “(A) Areas that exceed ambient benchmark concentrations for any
26 toxic air contaminant;

27 “(B) Any air quality control region that is not in attainment with
28 the national primary ambient air quality standard for any mobile
29 source related air pollutant; or

30 “(C) Any city or metropolitan service district established under ORS

1 chapter 268 with a population of 50,000 or greater.

2 “(b) Notwithstanding the definition of indirect source in section 2
3 of this 2023 Act, the following are excluded from regulation as an in-
4 direct source:

5 “(A) New or existing on-street parking.

6 “(B) A single-family or multifamily residential structure, except
7 that the exclusion under this paragraph does not apply to construction
8 of a residential structure that is greater than 10,000 square feet.

9 “(C) A commercial building that is used, or is intended to be used,
10 for providing goods or services directly to the general public, except
11 that the exclusion under this paragraph does not apply to construction
12 of a commercial building that is greater than 10,000 square feet.

13 “(D) A facility or property at which total aggregate emissions from
14 all mobile source activity associated with the facility or property is:

15 “(i) Less than 2,500 metric tons per year of carbon dioxide equiv-
16 alent; and

17 “(ii) Less than one metric ton per year of any other air contam-
18 inant.

19 “(E) An agricultural operation described in ORS 468A.020.

20 “(c) For purposes of determining the emissions of an indirect
21 source, emissions of a stationary air contamination source at, within
22 or associated with an indirect source may not be counted as emissions
23 of the indirect source.

24 “(3) Rules adopted under this section shall require that:

25 “(a) All new or modified indirect sources may not attract mobile
26 sources if the total aggregate emissions from the mobile sources would
27 cause or contribute to exceedances of any air quality standard estab-
28 lished pursuant to ORS 468A.020 or 468A.135.

29 “(b)(A) Except as provided in subparagraph (B) of this paragraph,
30 all medium or heavy-duty vehicles that park at an indirect source

1 must have access to electric charging infrastructure, if an indirect
2 source is located in an area exceeding ambient benchmark concen-
3 trations for diesel particulate matter.

4 “(B) The requirements of this paragraph do not apply to con-
5 struction sites.

6 “(c) The average exhaust emissions for all construction nonroad
7 vehicles, engines or equipment attracted to the indirect source that
8 are greater than 25 horsepower do not exceed 0.02 grams per
9 kilowatt-hour of PM2.5 or 0.4 grams per kilowatt-hour of NOx during
10 any one-hour period.

11 “(d) The average exhaust emissions from all diesel-powered motor
12 vehicles and engines attracted to the indirect source do not exceed 0.01
13 grams per brake-horsepower-hour of PM2.5 or 0.2 grams per brake-
14 horsepower-hour of NOx during any one-hour period.

15 “(e) All indirect sources adopt an emissions mitigation plan that
16 will reduce emissions consistent with air quality standards established
17 pursuant to ORS 468A.020 or 468A.135 and ambient benchmark con-
18 centrations for toxic air contaminants.

19 “(4) The department shall establish a methodology for quantifying
20 the amount of air contaminants emissions associated with an indirect
21 source. Emissions associated with an indirect source must include all
22 emissions from mobile sources attracted to the indirect source.

23 “(5) The commission shall establish by rule ongoing monitoring and
24 reporting requirements for distribution warehouse owners or opera-
25 tors, including but not limited to annual reporting of:

26 “(a) The average daily number of inbound and outbound vehicle
27 trips by vehicle weight and class, and by time of day and day of the
28 week;

29 “(b) The average daily vehicle miles traveled for all vehicles making
30 inbound and outbound trips to and from the distribution warehouse;

1 “(c) The average daily vehicle miles traveled and number of inbound
2 and outbound trips for alternative modes of freight, such as cargo bi-
3 cycles, waterborne transport and drones;

4 “(d) A heat map of the frequency data for trip destinations;

5 “(e) The percentage of vehicles used that are zero-emission vehicles,
6 including vehicle weight, class and whether the vehicle is used as an
7 on-road or off-road vehicle;

8 “(f) The number of electric vehicle charging stations installed and
9 actual usage;

10 “(g) The number of hydrogen fueling stations installed and actual
11 usage;

12 “(h) The number of on-site renewable energy generation systems
13 installed; and

14 “(i) Any other information necessary to effectively implement and
15 enforce any rule or regulation adopted pursuant to this section.

16 “(6) An owner or operator of an indirect source required to obtain
17 a permit pursuant to this section shall submit an application to the
18 department in the form and manner prescribed by the department. The
19 application must include, but need not be limited to, the following in-
20 formation:

21 “(a) The projected average number of motor vehicle trips and pri-
22 mary routes to the indirect source;

23 “(b) A study of potential traffic and congestion impacts;

24 “(c) Identification of locations near the indirect source frequented
25 by individuals who are at a heightened risk of negative health out-
26 comes due to exposure to air pollution, including but not limited to,
27 schools, day care centers, playgrounds, parks, hospitals, senior centers
28 or nursing homes; and

29 “(d) An initial emissions reduction and mitigation plan.

30 “(7) The commission may establish by rule a schedule of fees for

1 permits required by this section. The fees must be reasonably calcu-
2 lated to cover the direct and indirect costs of the Department of En-
3 vironmental Quality and the Environmental Quality Commission in
4 developing and implementing the indirect source review program.

5 “(8) The department shall provide notice and an opportunity for
6 public comment to all residents and businesses within 1,000 feet of a
7 proposed indirect source prior to approving any application for an in-
8 direct source permit. The department shall provide a public hearing,
9 if requested by a member of the public.

10 “SECTION 4. This 2023 Act takes effect on the 91st day after the
11 date on which the 2023 regular session of the Eighty-second Legislative
12 Assembly adjourns sine die.”

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