

**COMMUNITY INFORMATION ON HAZARDOUS SUBSTANCES  
Excerpt Only**

1 **453.396 Definitions for ORS 453.396 to 453.414.** As used in ORS 453.396 to 453.414:

2 (1) "Department" means the Department of Revenue.

3 (2) "Facility" means all buildings, equipment, structures and other stationary items that  
4 are located on a single site or on contiguous or adjacent sites and that are owned or operated  
5 by the same person or by any person who controls, is controlled by or under common control  
6 with such person.

7 (3) "Hazardous substance" means any chemical substance or waste for which a material  
8 safety data sheet is required by the Department of Consumer and Business Services.

9 (4) "Material safety data sheet" means written or printed material concerning a hazardous  
10 chemical which is prepared in accordance with rules of the Department of Consumer and  
11 Business Services.

12 (5) "Person" includes any entity operating a facility that is included in one or more of the  
13 standard industrial classification categories identified by the State Fire Marshal or added by  
14 the State Fire Marshal under ORS 453.408 (2). "Entity" includes any individual, trust, firm,  
15 association, corporation, partnership, joint stock company, joint venture, public or municipal  
16 corporation, commission, political subdivision, the state or any agency or commission  
17 thereof, interstate body, and the federal government and any agency thereof.

18 (6) "Possess" or "possession" means the physical possession of a hazardous substance  
19 within this state. [1989 c.833 §121; 1993 c.744 §228]

20  
21 **453.398 Purpose.** It is the intent of ORS 453.396 to 453.414 to impose a fee on the  
22 possession of hazardous substances at facilities in this state. These provisions are not  
23 intended to relieve any person from any other duty or responsibility imposed by law. [1989  
24 c.833 §122]

25  
26 **453.400 Possession of hazardous substance; fee.** (1) Beginning January 1, 1990, and  
27 annually thereafter, any person possessing a hazardous substance at a facility in this state in  
28 aggregate amounts at or above the threshold quantities designated by rule by the State Fire  
29 Marshal shall pay a fee for each facility in accordance with the fee schedules established  
30 under ORS 453.402.

31 (2) If any person fails to pay the fee imposed under subsection (1) of this section within  
32 60 days, there shall be added to the fee a penalty of five percent of the amount of the fee.  
33 Any payment made after 60 days shall bear interest at the rate prescribed under ORS  
34 305.220.

35 (3) The fee imposed by this section is in addition to all other state, county or municipal  
36 fees on a hazardous substance. [1989 c.833 §§123,130]

37  
38 **453.402 Fees; statement; schedules; uses; collection; local hazardous substance fees.**

39 (1) The State Fire Marshal shall annually send a statement to each person subject to the fee  
40 imposed under ORS 453.400, indicating the amount of the fee due. The amount of the fee  
41 shall be in accordance with the fee schedules established under subsection (2) of this section.

42 (2) By rule and after hearing, the State Fire Marshal shall establish three schedules of fees  
43 to be submitted annually by each employer returning a hazardous substance survey under

44 ORS 453.317, except as otherwise provided in subsection (4) of this section. In each case the  
45 fee shall be based upon the aggregate amount of the single largest annual aggregate substance  
46 reported that is manufactured, stored or used at the facility. The fee schedule shall be  
47 graduated and shall include but need not be limited to categories of fees for minimally  
48 hazardous substances, generally hazardous substances and very hazardous substances. In  
49 addition, the State Fire Marshal may establish a registration fee to be paid for certain  
50 hazardous substances and quantities of hazardous substances in lieu of the fee under the  
51 graduated schedule. When the State Fire Marshal assesses a registration fee, no local fee shall  
52 be assessed for those substances. The programs to be funded from fees collected under ORS  
53 453.396 to 453.414 and the maximum range of the fees that may be considered are as  
54 follows:

55 (a) For funding the Community Right to Know and Protection Act, not less than \$25 and  
56 not more than \$2,000.

57 (b) For funding the Toxics Use Reduction and Hazardous Waste Reduction Act, not less  
58 than \$25 and not more than \$2,000.

59 (c) For each employer's share of a total of up to \$1 million to be deposited into the  
60 Orphan Site Account established under ORS 465.381, not less than zero and not more than  
61 \$9,000. This schedule shall not require an employer to pay more than \$25,000.

62 (3) The Department of Revenue shall collect fees established under this section. The  
63 department shall determine the amounts to be distributed under subsection (2) of this section  
64 and shall transfer the appropriate amounts to the State Fire Marshal, the Department of  
65 Environmental Quality and the Orphan Site Account in accordance with expenditures  
66 approved by the Legislative Assembly for the State Fire Marshal and the Department of  
67 Environmental Quality. The remaining moneys are continuously appropriated to the State  
68 Fire Marshal to pay the expenses of the State Fire Marshal in administering and enforcing the  
69 provisions of ORS 453.396 to 453.414.

70 (4) The following are exempt from the fee imposed under this section:

71 (a) Crude oil and petroleum products derived from the refining of crude oil, including  
72 plant condensate, gasoline, diesel motor fuel, aviation fuel, lubrication oil, crankcase motor  
73 oil, kerosene, benzol, fuel oil, residual fuel, petroleum coke, asphalt base, liquified or  
74 liquifiable gases such as butane, ethane and propane and other products described during  
75 petroleum processing, but not including derivatives, such as petroleum jellies, cleaning  
76 solvents or asphalt paving.

77 (b) Solid waste as defined in ORS 459.005.

78 (c) Hazardous waste as defined in ORS 466.005.

79 (d) Any substance or activity which the Constitution or laws of the United States prohibit  
80 the state from taxing.

81 (e) From the fee imposed under the schedule established under subsection (2)(c) of this  
82 section, any person whose property is exempt from taxation under ORS 307.090.

83 (f) Natural gas unless stored in liquified form for nonvehicular use in quantities greater  
84 than 200 cubic feet.

85 (5)(a) Except as provided in paragraph (b) of this subsection, propane, butane and  
86 blended or compounded petroleum products produced by processes other than the refining of  
87 crude oil and for nonvehicle use are not exempt from the fees imposed by subsection (2) of  
88 this section.

89 (b) Propane produced by processes other than the refining of crude oil and for nonvehicle

90 use is exempt from the fee imposed by subsection (2)(b) of this section.

91 (6) Local government assessments of hazardous substance fees based on quantity or the  
92 hazardous substance survey shall be used solely to supplement and not to duplicate the State  
93 Fire Marshal's programs under ORS 453.307 to 453.414 and shall be billed and collected  
94 only through contract with the State Fire Marshal. A local government shall not charge any  
95 fee under its program for a hazardous substance for which an employer pays a registration  
96 fee to the State Fire Marshal under subsection (2) of this section.

97 (7) The State Fire Marshal shall not enter into a contract with a local government under  
98 subsection (6) of this section unless the local government meets the following requirements:

99 (a) The local government certifies that the revenue from the local hazardous substance  
100 fee will be used solely to supplement and not duplicate the State Fire Marshal's programs  
101 under ORS 453.307 to 453.414;

102 (b) The local hazardous substance fee system is structured to be compatible with the fee  
103 schedule adopted under subsection (2)(a) of this section;

104 (c) The local hazardous substance fee system will not raise moneys in excess of that  
105 needed to carry out the local government's supplemental community right to know programs;  
106 and

107 (d) The contract under this section shall include:

108 (A) Provisions that ensure that the local government pays the portion of the costs that  
109 may be attributed to its fee assessment program; and

110 (B) Conditions that require the local government to bear all costs related to collection of  
111 its fee, including but not limited to costs associated with conducting hearings or appeals on  
112 the fee.

113 (8) In addition to collecting the fees due to the State Fire Marshal under this section, the  
114 Department of Revenue also may collect the fees authorized for collection under a contract  
115 established under subsection (6) of this section. The Department of Revenue shall determine  
116 the amount to be distributed to each local government according to fee assessment totals  
117 provided by the State Fire Marshal for each local government for whom the State Fire  
118 Marshal has contracted to assess a fee. [1989 c.833 §124; 1991 c.804 §2; 2003 c.95 §1]