

453.365 [1971 c.609 §10; 1975 c.552 §38; 1975 c.606 §28; renumbered 469.370]

453.367 Rules. In accordance with applicable provisions of ORS chapter 183, the State Fire Marshal shall adopt rules necessary to carry out the provisions of ORS 453.307 to 453.414. [1985 c.726 §5]

453.370 Limitations on local community right to know regulatory programs; local fees. (1) In order to maintain and ensure the effectiveness of state programs established under ORS 453.307 to 453.414, as well as to ensure the effectiveness of local efforts, a local government may establish, enforce or enact a local community right to know regulatory program provided that the local program complies with the requirements of this section.

(2) To the extent that a local program is supported in whole or in part by fees, those fees may be set, imposed or assessed only by the local government that is implementing the local program. Such fees are allowed only to the extent not otherwise prohibited or limited by law. Such fees:

(a) Shall be adopted by ordinance as a fee schedule, after notice and public hearing; and

(b) May not exceed \$2,000 for any single facility in any calendar year.

(3)(a) All local community right to know regulatory program enforcement, including but not limited to penalties, may be imposed only by a local fire official or a board established by the local government to implement the local community right to know regulatory program.

(b) Penalties for violations of a community right to know regulatory program may not exceed \$1,000 per day and shall be assessed according to a schedule adopted by the local government after notice and public hearing. Except when a local government has reasonable grounds to find that an employer willfully and knowingly avoided compliance with the local program, and as long as the employer submits the required information within 30 days following a written notification of noncompliance, penalties shall be suspended if the employer has no history of violating the local program.

(4) After notice and public hearing, the local government must determine that:

(a) Existing reporting to local, state or federal agencies is inadequate to meet the needs and concerns of the local government;

(b) The state or federal government does not collect data that will provide substantially the same information desired by the local government;

(c) The local government has asked the appropriate state agency to operate the program desired by the local government and the state agency has not committed to do so within 180 days;

(d) The Department of Environmental Quality, the State Fire Marshal and the Oregon Health Authority have had an opportunity to comment on the proposed program and the local government has responded to those comments; and

(e) The local government has provided an opportunity for written and oral public comment on the proposed program.

(5) Any local government that operates a local community right to know regulatory program shall:

(a) Provide for an opportunity to report data electronically;

(b) Place data reported under the program on the Internet with instructions for the general public that explain the organization of the data; and

(c) Keep records of data usage and otherwise document interest in the collected data.

(6) Data and other information presented under a local community right to know regulatory program:

(a) Shall clearly distinguish, where appropriate, public health interpretations from the raw data;

(b) May, where feasible, indicate specifically which hazardous substances and toxic substances are being released into the local air, water and land; and

(c) Shall include locations where a person may obtain epidemiological statistics related to health effects of the hazardous substances and toxic substances, if available.

(7) For any hazardous substance or toxic substance that a local government proposes to require an employer to report under a local community right to know regulatory program established pursuant to this section, the local government shall seek written and oral public comment and provide written notice to interested parties prior to adoption as a reporting requirement. The local government must provide the public with an opportunity to comment on the appropriateness of reporting on the proposed hazardous substance or toxic substance, including but not limited to commenting on health and environmental considerations, economic concerns and feasibility of compliance. The local government shall consider the comments before adopting a list or making additions to a list of hazardous substances and toxic substances to be reported.

(8) In administering a local community right to know regulatory program, a local government shall establish procedures to exempt, when reasonable, an entity from all or part of the local program for the purpose of protecting trade secrets or where the local government determines that the operations of the entity pose little or no risk to the public health or the environment.

(9) Except as prohibited by federal or state law, a local program may not differentiate between public and private employers.

(10) Nothing in this section shall be construed to limit the authority of a local government to:

(a) Distribute information collected under the state Community Right to Know and Protection Act; or

(b) Adopt or enforce a local ordinance, rule or regulation strictly necessary to comply with:

(A) The Uniform Building Code as adopted and amended by the Director of the Department of Consumer and Business Services;

(B) A uniform fire code; or

(C) Any requirement of a state or federal statute, rule or regulation, including but not limited to those controlling hazardous substances, toxic substances or other environmental contaminants. [1999 c.1089 §3; 2001 c.104 §191; 2005 c.22 §326; 2009 c.595 §898]

453.372 Short title. ORS 453.307 to 453.414 may be cited as the Community Right to Know and Protection Act. [1985 c.726 §2]

453.374 Hazardous material emergency response system; implementation; contents; rules; fees. The State Fire Marshal shall establish by rule a plan for the effective implementation of a statewide hazardous material emergency response system, which, to the extent practicable, shall be consistent with the emergency response plan adopted under ORS 466.620. The statewide hazardous material emergency response system shall include, but need not be limited to:

(1) Provisions for coordinating the duties and responsibilities of regional hazardous material response teams, including related procedures for 24-hour dispatching and emergency communications;

(2) A schedule of fees for computing the reimbursement for extraordinary response costs incurred by a regional hazardous material response team as authorized by ORS 453.374 to 453.390; and

(3) Provisions for ongoing training programs for local government and state agency employees involved in response to spills or releases of oil and hazardous material. The Department of Public Safety Standards and Training may coordinate its training programs with emergency response training programs offered by local, state and federal agencies, community colleges and institutes of higher education and private industry in order to reach the maximum number of employees, avoid unnecessary duplication and conserve limited training funds. [1989 c.833 §82; 1993 c.185 §18; 1997 c.853 §39]

453.375 [1971 c.609 §22; 1975 c.606 §29; renumbered 469.380]

453.376 Disclosure of information to State Fire Marshal; entry onto premises. (1) In order to determine the need for response to a spill or release or threatened spill or release under ORS 453.307 to 453.414, or enforcing the provisions of ORS 453.307 to 453.414, any person who prepares, manufactures, processes, packages, stores, transports, handles, uses, applies, treats or disposes of oil or hazardous material shall, upon the request of the State Fire Marshal:

(a) Furnish information relating to the oil or hazardous material; and

(b) Permit the State Fire Marshal at all reasonable times to have access to, and to make copies of, records relating to the type, quantity, storage locations and hazards of the oil or hazardous material.

(2) In order to carry out subsection (1) of this section, the State Fire Marshal may enter to inspect at reasonable times any establishment or other place where oil or hazardous material is present.

(3) Any person possessing or holding a quantity of oil or hazardous material meeting or exceeding the reporting criteria established by the State Fire Marshal shall notify the State Fire Marshal of the presence, quantity and other information required under statute or rule, and shall conform to the requirements of ORS 453.307 to 453.414. [1989 c.833 §83; 1999 c.1089 §6; 2001 c.104 §193]

453.378 Disclosure of information to local government official; entry onto premises. (1) In order to determine the need for response to a spill or release or threatened spill or release under ORS 453.307 to 453.414, any