

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

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

**453.402 Fees; statement; schedules; uses; collection; local hazardous substance fees.** (1) The State Fire Marshal shall annually send a statement to each person subject to the fee imposed under ORS 453.400, indicating the amount of the fee due. The amount of the fee shall be in accordance with the fee schedules established under subsection (2) of this section.

(2) By rule and after hearing, the State Fire Marshal shall establish three schedules of fees to be submitted annually by each employer returning a hazardous substance survey under ORS 453.317, except as otherwise provided in subsection (4) of this section. In each case the fee shall be based upon the aggregate amount of the single largest annual aggregate substance reported that is manufactured, stored or used at the facility. The fee schedule shall be graduated and shall include but need not be limited to categories of fees for minimally hazardous substances, generally hazardous substances and very hazardous substances. In addition, the State Fire Marshal may establish a registration fee to be paid for certain hazardous substances and quantities of hazardous substances in lieu of the fee under the graduated schedule. When the State Fire Marshal assesses a registration fee, no local fee shall be assessed for those substances. The programs to be funded from fees collected under ORS 453.396 to 453.414 and the maximum range of the fees that may be considered are as follows:

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

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

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

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

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

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

(b) Solid waste as defined in ORS 459.005.

(c) Hazardous waste as defined in ORS 466.005.

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

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

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

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

(b) Propane produced by processes other than the refining of crude oil and for nonvehicle use is exempt from the fee imposed by subsection (2)(b) of this section.

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

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

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

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

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

(d) The contract under this section shall include:

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

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

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

**453.404 Extension of payment date.** (1) The State Fire Marshal for good cause may extend, for not to exceed one month, the time for payment of the fee due under ORS 453.396 to 453.414. The extension may be granted at any time if a written request is filed with the State Fire Marshal within or prior to the period for which the extension may be granted. If the time for payment is extended at the request of a person, interest at the rate established under ORS 305.220, for each month, or fraction of a month, from the time the payment was originally due to the time payment is actually made, shall be added and paid.

(2) If the person fails to pay the amount due, the State Fire Marshal may either:

(a) Bring an action for the recovery of the fee due; or

(b) Initiate a contested case hearing according to the applicable provisions of ORS chapter 183.

(3) Notwithstanding any provision of ORS chapter 183, nothing in subsection (2) of this section shall be considered to require the State Fire Marshal to conduct a contested case hearing as a prerequisite to bringing an action under subsection (2)(a) of this section. [1989 c.833 §125]

**453.405** [1971 c.609 §21; 1973 c.687 §2; 1975 c.606 §32; renumbered 469.420]

**453.406 Records of hazardous substance possessed; examinations.** (1) Every person who possesses a hazardous substance shall keep at its registered place of business complete and accurate records for each facility of any hazardous substance purchased by, or brought in or caused to be brought in to the facility, or stored, used or manufactured at the facility.

(2) The State Fire Marshal or an authorized representative of the State Fire Marshal, upon oral or written reasonable notice, may make such examinations of the books, papers, records and equipment required to be kept under this section as it may deem necessary in carrying out the provisions of ORS 453.396 to 453.414. [1989 c.833 §126]

**453.408 Rules.** (1) The Department of Revenue, in consultation with the State Fire Marshal, is authorized to establish those rules and procedures for the implementation and enforcement of ORS 453.396 to 453.414 that are consistent with its provisions and are considered necessary and appropriate.

(2) The State Fire Marshal by rule may add persons or substances to or exempt persons or substances from liability for the fee imposed under ORS 453.396 to 453.414 to conform to the reporting requirements established by the State Fire Marshal under the Community Right to Know and Protection Act.

(3) Before final adoption of initial rules to carry out the provisions of ORS 453.396 to 453.414 or subsequent amendment of the initial fee schedules established under ORS 453.398, the State Fire Marshal shall obtain prior approval of the fees by the Oregon Department of Administrative Services and shall submit a report to the Emergency Board prior to adopting the fees. The fees established under ORS 453.396 to 453.414 shall be within the