

Oregon Department of Environmental Quality
Chapter 340 Rulemaking

Proposed Rule Revisions

Rule Caption:
Title V operating permit fee increases authorized in statute

DIVISION 220

OREGON TITLE V OPERATING PERMIT FEES

340-220-0030

Annual Base Fee

~~(1) The Department will assess an annual base fee of \$ 4,390 for each source subject to the Oregon Title V Operating Permit program for the period of November 15, 2007 to November 14, 2008.~~

~~(2) The Department will assess an annual base fee of \$ 4,849 for each source subject to the Oregon Title V Operating Permit program for the period of November 15, 2008 to November 14, 2009.~~

~~(3) The Department will assess an annual base fee of \$ 5,1835,421 for each source subject to the Oregon Title V Operating Permit program for the period of November 15, 2009 to November 14, 2010, and for each annual period thereafter.~~

~~(2) The Department will assess an annual base fee of \$ 7,183 for each source subject to the Oregon Title V Operating Permit program for the period of November 15, 2010 to November 14, 2011.~~

~~(3) The Department will assess an annual base fee of \$ 7,289 for each source subject to the Oregon Title V Operating Permit program for the period of November 15, 2011 to November 14, 2012, and for each annual period thereafter.~~

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468 & 468A

340-220-0040

Emission Fee

~~(1) The Department will assess an emission fee of \$ 43.90 per ton of each regulated pollutant emitted during calendar year 2006 to each source subject to the Oregon Title V Operating Permit Program.~~

~~(2) The Department will assess an emission fee of \$ 48.49 per ton of each regulated pollutant emitted during calendar year 2007 to each source subject to the Oregon Title V Operating Permit Program.~~

(3) The Department will assess an emission fee of \$ ~~51.83~~54.21 per ton of each regulated pollutant emitted during calendar year 2008 ~~and for each calendar year thereafter~~ to each source subject to the Oregon Title V Operating Permit Program.

~~(2) The Department will assess an emission fee of \$ 54.31 per ton of each regulated pollutant emitted during calendar year 2009 to each source subject to the Oregon Title V Operating Permit Program.~~

~~(3) The Department will assess an emission fee of \$ 55.11 per ton of each regulated pollutant emitted during calendar year 2010 and for each calendar year thereafter to each source subject to the Oregon Title V Operating Permit Program.~~

(4) The emission fee will be applied to emissions based on the elections made according to OAR 340-220-0090.

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A.035

340-220-0050

Specific Activity Fees

~~(1) The Department will assess specific activity fees for an Oregon Title V Operating Permit program source for the period of August 21, 2007 to June 30, 2008 as follows:~~

~~(a) Existing Source Permit Revisions:~~

~~(A) Administrative* — \$ 406;~~

~~(B) Simple — \$ 1,626;~~

~~(C) Moderate — \$ 12,194;~~

~~(D) Complex — \$ 24,387.~~

~~(b) Ambient Air Monitoring Review — \$ 3,252.~~

~~(2) The Department will assess specific activity fees for an Oregon Title V Operating Permit program source as of July 1, 2008 as follows:~~

~~(a) Existing Source Permit Revisions:~~

~~(A) Administrative* — \$ 418;~~

~~(B) Simple — \$ 1,672;~~

~~(C) Moderate — \$ 12,540;~~

~~(D) Complex — \$ 25,081.~~

~~(b) Ambient Air Monitoring Review — \$ 3,344.~~

(1) The Department will assess specific activity fees for an Oregon Title V Operating Permit program source for the period of August 26, 2009 to December 31, 2010 as follows:

(a) Existing source permit revisions:

(A) Administrative* -- \$ 437;

(B) Simple -- \$ 1,748;

(C) Moderate -- \$ 13,115;

(D) Complex -- \$ 26,231.

(b) Ambient air monitoring review -- \$ 3,497.

(2) The Department will assess specific activity fees for an Oregon Title V Operating Permit program source for the period of January 1, 2011 to December 31, 2011 as follows:

(a) Existing source permit revisions:

(A) Administrative* -- \$ 437;

(B) Simple -- \$ 1,751;

(C) Moderate -- \$ 13,139;

(D) Complex -- \$ 26,279.

(b) Ambient Air Monitoring Review -- \$ 3,503.

(3) The Department will assess specific activity fees for an Oregon Title V Operating Permit program source as of January 1, 2012 as follows:

(a) Existing source permit revisions:

(A) Administrative* -- \$ 444;

(B) Simple -- \$ 1,777;

(C) Moderate -- \$ 13,333;

(D) Complex -- \$ 26,667.

(b) Ambient Air Monitoring Review -- \$ 3,555.

*includes revisions specified in OAR 340-218-0150(1) (a) through (g). Other revisions specified in OAR 340-218-0150 are subject to simple, moderate or complex revision fees.

Stat. Auth.: ORS 468 & 468A
Stats. Implemented: ORS 468 & 468A

Oregon Department of Environmental Quality
Chapter 340 Rulemaking

Summary of Public Comment and Agency Response

Rule Caption:
Title V operating permit fee increases authorized in statute

Prepared by: Andrea Curtis Date: Oct. 20, 2010

Comment period	The public comment period opened Sept. 20, 2010, and closed 5 p.m., Oct. 19, 2010. Four people submitted comments on the proposed rules. DEQ held the public hearing described below; no members of the public attended. Oct. 18, 2010, 6 pm DEQ - Headquarters Office, Room EQC-A 811 SW Sixth Avenue, Portland
Organization of comments and responses	Summaries of individual comments and DEQ's responses are provided below. Comments are summarized in categories. The persons who provided comments are referenced by number. A list of commenters and their reference numbers follows the summary of comments and responses. DEQ responses are shown in <i>italics</i> .

Summary of Comments and DEQ Responses

➤ *Comment:* I'd rather see an increase in permit fees than an increase of polluting our air. (4)

DEQ's response:

Increasing Title V permit fees will ensure DEQ has adequate revenue to cover costs of the Title V program. Title V permitting helps ensure that permit holders comply with state and federal emissions standards to protect air quality.

➤ *Comment:* As a permit holder and local Oregon small business, we oppose a fee increase for Title V air quality permits. It is imprudent to implement fee increases of nearly 33 percent at any level during such a trying economic time. Businesses like ours cannot continue to bear the brunt of continued tax and fee increases which are allegedly "required" by our government to stay fiscally viable. Small businesses such as ours face many of the same, if not more, personnel and budgetary challenges that every regulatory and government agency faces today. There is not a mechanism for us to raise prices in order to maintain our historical annual revenues. We are forced to evaluate hard costs, and make our businesses more efficient and nimble in order to survive and thrive into the next generation. I challenge DEQ and all governmental agencies to start looking at their hard costs, instead of always turning to the private sector as the answer. (1)

➤ *Comment:* The current economic situation has created a great hardship for members of the Oregon Reinforced Plastics Association. Several members are struggling to remain in business. To increase Title V fees nearly 40 percent from 2008 levels at this time will make a bad situation worse for companies fighting to control costs. I request DEQ defer making these increases for the present and only consider them at a future date when the economy has improved. (2)

➤ *Comment:* We applaud the State's desire to protect Oregon's air and water quality; however, we believe that any Title V fee increase should be applied to emissions, not to the base fee. If the State feels fees

must be increased to cover program oversight, the money should not come disproportionately from small emitters. The base fee increase unfairly targets small business and small emitters such as ours with a much higher percentage increase in overall air permit costs. Our facility's percentage increase in total air permit costs is 18.4 percent, nearly 29 times higher than that of a larger company emitting 5,000 tons. (3)

- *Comment:* In the previous year, our facility emitted fewer than 15 tons of total VOC and 5.6 tons of styrene, the hazardous air pollutant that places our facility under the Title V regulations. Our facility likely has one of the simplest, if not the simplest facility to oversee and manage in the Title V program, especially compared to huge mills and power plants with thousands of tons of emissions, smokestacks, and accompanying obvious impacts on the local air quality. We wish to pay our fair share of oversight costs, but we have seen no rationale for a 32.5 percent increase in the base fee. (3)
- *Comment:* Because of current economic conditions, our business has declined and therefore our facility's emissions have dropped significantly. It's likely we could drop our Title V permit and obtain an Air Contaminant Discharge Permit. However, when our business starts to grow again and we bump up against the 9-ton limit for a hazardous air pollutant, we'd be forced to apply again for a Title V permit, which would probably be more expensive in the long run. Also, this could seriously jeopardize our manufacturing ability, as it can take up to a year or more to get a Title V permit in place. (3)

DEQ's response to all comments:

- DEQ sympathizes with the costs to the regulated community associated with the Title V operating permit program and has done everything it can to minimize the fees. We performed a workload analysis in 2005 and identified streamlining measures that improved program efficiency and allowed us to reduce staff levels by one position without reducing program effectiveness. However, due to inadequate revenue, we were forced to cut additional positions and this resulted in permitting backlogs. Backlogs affect DEQ's ability to address air quality issues at permitted facilities, which could prevent permit holders from making changes in their operations necessary to respond to market conditions. We identified additional streamlining measures in 2007 that simplified requirements for permit holders, but we are unable to make further reductions in staffing without jeopardizing the program. Failure to staff the program adequately would result in increased backlogs, which would result in federal audits and could lead to loss of Oregon's delegation of the program.
- The annual base fee is smaller than the emission fees paid by most sources; however, relying too heavily on emission fees creates funding instability. The percent increase to the annual base fee is larger than the percent increase to the emission fee to stabilize program revenue, by increasing DEQ's reliance on base fee revenue and decreasing its reliance on emission fee revenue. Before the Legislature approved the fee increase, nearly 90 percent of program revenue was generated by the emission fee, and most of the remaining revenue was generated by the base fee. DEQ would have experienced a significant loss in program revenue because emissions have declined from about 90,000 tons to 70,000 tons in the past twenty years. The main reason for the decline was that some permit holders began paying fees based on actual emissions instead of maximum allowable emissions. New federal regulations, such as emissions controls required by the best achievable retrofit technology rules, or BART, are resulting in additional emission reductions. A decline in emissions does not result in less work for DEQ. The Legislature raised the base fee to offset loss in revenue. In addition, the Legislature changed the emissions fee cap to reflect new emission levels. Beginning with the 2011 emission year, the cap changes from a maximum of 4,000 tons per year on each regulated pollutant to a maximum of 7,000 tons per year of all regulated pollutants.

- The annual base fee and emission fees are set in state law. The fees proposed in DEQ's rulemaking implement the fees established by the Oregon Legislature.
- DEQ performed outreach to all Title V permit holders in 2007 about the need to increase fees and stabilize program revenue. DEQ worked with fee payer representatives, including Associated Oregon Industries and the Northwest Pulp and Paper Association, on legislation to increase fees in state law, which the Oregon Legislature passed in 2007.
- DEQ does not feel the proposed fees unfairly target small emitters. The emission fee would still generate about 80 percent of program revenue and nearly 50 percent of that revenue would be generated by facilities emitting over 1,000 tons annually. While large emitters would experience a smaller total percent fee increase relative to the fees they pay for their Title V permits, large emitters still pay significantly greater fees than small emitters do.
- Federal laws require DEQ to fund the program through fees. The fee increases generate the minimum amount of revenue DEQ needs to staff the program at adequate levels, which will help ensure DEQ provides permit changes and technical assistance to permit applicants and existing permit holders in a timely manner.

➤ *Comment:* We believe the emission fee should apply to a facility's actual emissions, not the maximum allowable emissions in the facility's permit. Currently, the "per ton" emissions fee is based on maximum allowable emissions in a permit, not on actual emissions. We paid emission fees on 75 tons VOC, yet only emitted 14.9 tons. This practice is analogous to a credit card company charging customers interest based on their maximum credit limit instead of their actual credit balance! In the private sector, this would be an unfair business practice and completely illegal. Why is it an acceptable practice by the State of Oregon? Is it because there are only 116 businesses holding Title V permits in the state, and therefore no public outcry? (3)

➤ *Comment:* If the State wants to help improve air quality in Oregon by lowering emissions by industry, it needs to incentivize businesses to reduce their emissions. That can be accomplished by charging companies a per ton fee on actual emissions instead of maximum allowable emissions in the permit. With this proposed Title V fee increase, Oregon is not providing an incentive for companies to lower their emissions as much as possible and is penalizing companies that plan and permit for growth. Companies need their permits to have emission limits higher than actual emissions for anticipated, as well as unanticipated, growth. After all, we (the people of Oregon) want Oregon businesses to thrive and grow and continue to hire workers, while simultaneously managing the environmental impacts of their businesses in a responsible manner. (3)

DEQ's response:

- All Title V permit holders have the option to pay emission fees on actual emissions. Depending on the facility, determining actual emissions requires continuous emissions monitoring equipment, source tests, mass balance calculations or a combination of these methods. We encourage permit holders to consider this option. However, for some facilities, determining actual emissions subject to fees would be more costly and a greater burden for the permit holder than paying on emission limits.
- While the main purpose of the Title V emission fees is to fund the program, the emission fees do create a small incentive for facilities to reduce emissions. However, the fee is not high enough to create a significant incentive for facilities to reduce emissions because it is set at a level just high

enough to fund the program. Hazardous air pollutants have environmental impacts at lower levels than other regulated air pollutants. If emission fees were to create an incentive for permit holders to reduce emissions to protect air quality, the per ton fee for hazardous air pollutants would likely be higher than the per ton fee for other regulated, less hazardous air pollutants; however, state law does not authorize DEQ to restructure the emission fees in this manner. Instead, DEQ administers regulations to reduce facility emissions. The main purpose of the Title V operating permit program is to ensure facilities comply with regulations to protect air quality. DEQ also applauds businesses that take voluntary efforts to manage the environmental impacts of their businesses in a responsible manner.

List of people submitting comments (by commenter number)			
Number	Name	Organization	Date received
1	Matt Seehawer, General Manager	Oregon Mainline Paving, LLC	9/21/2010
2	James R. Watts	Oregon Reinforced Plastics Association, Inc.	10/13/2010
3	Eric S. Ball, P.E. VP Product Development	Orengo Systems, Inc.	10/18/2010
4	Dirk Degroot	Not provided	9/20/2010

State of Oregon
Department of Environmental Quality

Memorandum

Presiding Officer's Report

Date: Oct. 20, 2010

To: Environmental Quality Commission

From: Gregg Dahmen, DEQ

Subject: Presiding officer's report for rulemaking hearing
Rule Caption: Title V operating permit fee increases authorized in statute

Location, date and time: DEQ Headquarters, EQC A
811 SW 6th Avenue
Portland, OR 97204
Oct. 18, 2010, beginning at 6 p.m.

DEQ convened the rulemaking hearing on the proposal referenced above at 6:10 p.m. and closed it at 6:40 p.m. No members of the public attended the hearing.

Oregon Department of Environmental Quality
 Chapter 340 Rulemaking

Statement of Need and Fiscal and Economic Impact

Rule Caption:

Title V operating permit fee increases authorized in statute

This form accompanied a Notice of Proposed Rulemaking Hearing

Title of Proposed Rulemaking	Title V Operating Permit Fee Increases Division 220
Statutory Authority or other Legal Authority	ORS 468.020, 468.065, 468A.025, 468A.040, 468A.310 and 468A.315.
Statutes Implemented	ORS 468 and 468A
Need for the Rule(s)	<p>The Oregon Title V operating permit program requires additional funding to continue protecting Oregon's air quality. The federal Clean Air Act requires each state's Title V program to be fully funded through permit fees. The objective of this rulemaking is to increase Title V fees in rule by the amounts authorized in statute. Failure to increase the fees could affect the Department of Environmental Quality's ability to maintain adequate staff levels in the program, which could jeopardize DEQ's ability to administer an effective program. Revenue from the proposed fees would fund the program through 2012 and help DEQ:</p> <ul style="list-style-type: none"> • Issue and renew Title V permits in a timely manner; • Complete required Title V inspections; • Monitor and enforce compliance with air quality regulations; • Comply with federal requirements to maintain a federally approved and delegated Title V program; and • Issue public notices and information on the Title V program.
Documents Relied Upon for Rulemaking	<p>Documents relied upon to provide the basis for this proposal include:</p> <ul style="list-style-type: none"> • 2009-2011 Legislatively approved budget • 2009-2011 Revenue forecast • Federal Clean Air Act Amendments of 1990 • Oregon Revised Statutes (ORS 468.020, 468.065, 468A.025, 468A.040, 468A.310 and 468A.315) • US Department of Labor, Bureau of Statistics, Consumer Price Index through August 2010 <p>Copies of these documents are available for review from DEQ's headquarters office at 811 SW Sixth Avenue, Portland, Oregon 97204. Please contact Andrea Curtis at 503-229-6866 or toll free in Oregon at 800-452-4011 to request copies.</p>
Requests for Other Options	Pursuant to ORS 183.335(2)(b)(G), DEQ requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

Fiscal and Economic Impact, Statement of Cost Compliance

Overview

Title V of the federal Clean Air Act requires each state to develop and implement a comprehensive operating permit program for major industrial sources of air pollution. Through permitting, inspections and technical assistance, Oregon's Title V program contributes to the prevention of air pollution and helps reduce the number of unhealthy air days and the risks from toxic air pollutants.

The Oregon Legislature established Oregon's Title V fees in three categories: an annual base fee is assessed to all Title V sources regardless of emission quantities; emission fees are assessed per ton on emissions from individual sources per calendar year; and specific activity fees are assessed when a source owner or operator modifies a permit. Title V fees pay for permitting, inspections, technical assistance, enforcement, rule and policy development, data management and reporting to the Environmental Protection Agency. Title V fees also support a portion of air quality monitoring, air quality planning and air program management costs.

Oregon revised statute increases the annual base fee beginning in 2010 and authorizes the Environmental Quality Commission to adjust all of the fee categories by the annual change in the consumer price index. The Commission must adopt the fees by rule to reflect the change in the index since 1989.

The increase to the annual base fee in 2010 stabilizes program revenue by reducing reliance on emission fees and increasing reliance on base fees. This is necessary to prevent a significant loss of revenue when new federal regulations significantly reduce emissions from the highest emitting sources in coming years and when the emission fee cap changes in 2011 from a maximum of 4,000 tons per year on each regulated pollutant to a maximum of 7,000 tons per year of all regulated pollutants.

The proposed rulemaking would increase Title V fees for 2010 and 2011 and incorporate a fee increase for 2009 identical to the increase already adopted through a temporary rulemaking. The fees for 2009 include the change in the 2008 consumer price index and reflect a technical correction required by statute. The fees for 2010 include the increase to the annual base fee in statute and the change in the 2009 consumer price index and the fees for 2011 include the change in the 2010 consumer price index.

The proposed annual base fees and emission fees are provided in the table on the next page. The annual base fee is small in comparison to the emission fees paid by most sources. The rulemaking would increase specific activity fees, described in Attachment A, based on the changes in the consumer price index. Specific activity fees contribute a small portion of Title V program revenue.

Proposed Title V fees for 2009, 2010 and 2011 by fee category:

Fee category	From fees in rule	To 2009 fees (already invoiced)	Increase over fees in rule	To 2010 fees (to be invoiced)	Increase over 2009 fees	To 2011 fees (to be invoiced)	Increase over 2010 fees
Annual base fee	\$5,183	\$5,421	\$238 (4.6%)	\$7,183	\$1,762 (32.5%)	\$7,289	\$106 (1.5%)
Emission fee (per ton)	\$51.83	\$54.21	\$2.38 (4.6%)	\$54.31	\$0.10 (0.2%)	\$55.11	\$0.80 (1.5%)

	<p>The proposed fees reflect a technical correction pursuant to Senate Bill 104 (2009), which was codified in ORS 468A.315. The bill aligned the consumer price index period in statute with the federal definition. While the Clean Air Act defines the consumer price index calendar year as the twelve-month period ending August 31, the statute simply provided “calendar year,” commonly understood as the twelve-month period ending December 31. The correction shifts the consumer price index period DEQ uses in fee calculations back several months.</p> <p>The rulemaking would not require retroactive collection of fees. In August 2009, the Commission adopted temporary rule amendments that increased fees for 2009 to allow DEQ to issue invoices to Title V permittees on the normal 2009 schedule and avoid the need for a supplemental billing.</p> <p>The rulemaking would affect all 116 businesses required to maintain Title V permits. The requirement for a Title V permit is based on quantity of emissions from a facility. In general, lower emitting sources with less complex permits would experience a smaller annual dollar impact from the proposed fee increases. The table below shows the effect of the proposed fees on invoices issued to sources emitting 50, 500 or 5,000 tons per year. About 10% of Title V permittees emit fewer than 50 tons per year, 61% emit between 50 and 500 tons per year, 26% emit between 500 and 5,000 tons per year and 3% emit greater than 5,000 tons per year.</p> <p>Proposed Title V fees for 2009, 2010 and 2011 by tons of source emissions:</p> <table border="1" data-bbox="479 955 1516 1381"> <thead> <tr> <th>Emissions per calendar year</th> <th>From fees in rule</th> <th>To 2009 fees (already invoiced)</th> <th>Increase over fees in rule</th> <th>To 2010 fees (to be invoiced)</th> <th>Increase over 2009 fees</th> <th>To 2011 fees (to be invoiced)</th> <th>Increase over 2010 fees</th> </tr> </thead> <tbody> <tr> <td>50 tons</td> <td>\$7,774</td> <td>\$8,131</td> <td>\$357 (4.6%)</td> <td>\$9,898</td> <td>\$1,767 (21.7%)</td> <td>\$10,039</td> <td>\$141 (1.5%)</td> </tr> <tr> <td>500 tons</td> <td>\$31,098</td> <td>\$32,526</td> <td>\$1,428 (4.6%)</td> <td>\$34,338</td> <td>\$1,812 (5.6%)</td> <td>\$34,825</td> <td>\$487 (1.5%)</td> </tr> <tr> <td>5,000 tons</td> <td>\$264,333</td> <td>\$276,471</td> <td>\$12,138 (4.6%)</td> <td>\$278,733</td> <td>\$2,262 (0.8%)</td> <td>\$282,839</td> <td>\$4,106 (1.5%)</td> </tr> </tbody> </table>	Emissions per calendar year	From fees in rule	To 2009 fees (already invoiced)	Increase over fees in rule	To 2010 fees (to be invoiced)	Increase over 2009 fees	To 2011 fees (to be invoiced)	Increase over 2010 fees	50 tons	\$7,774	\$8,131	\$357 (4.6%)	\$9,898	\$1,767 (21.7%)	\$10,039	\$141 (1.5%)	500 tons	\$31,098	\$32,526	\$1,428 (4.6%)	\$34,338	\$1,812 (5.6%)	\$34,825	\$487 (1.5%)	5,000 tons	\$264,333	\$276,471	\$12,138 (4.6%)	\$278,733	\$2,262 (0.8%)	\$282,839	\$4,106 (1.5%)
Emissions per calendar year	From fees in rule	To 2009 fees (already invoiced)	Increase over fees in rule	To 2010 fees (to be invoiced)	Increase over 2009 fees	To 2011 fees (to be invoiced)	Increase over 2010 fees																										
50 tons	\$7,774	\$8,131	\$357 (4.6%)	\$9,898	\$1,767 (21.7%)	\$10,039	\$141 (1.5%)																										
500 tons	\$31,098	\$32,526	\$1,428 (4.6%)	\$34,338	\$1,812 (5.6%)	\$34,825	\$487 (1.5%)																										
5,000 tons	\$264,333	\$276,471	\$12,138 (4.6%)	\$278,733	\$2,262 (0.8%)	\$282,839	\$4,106 (1.5%)																										
<p>Impacts on the General Public</p>	<p>DEQ does not anticipate any direct fiscal or economic impacts from the proposed fee increases on the public. The proposed fee increases could indirectly affect the public because the increases could be passed through by Title V permit holders, resulting in increases in the costs of products or services provided by businesses with Title V permits. DEQ expects any such price increases to be small and lacks available information upon which it could accurately estimate actual potential increases.</p> <p>Air pollution creates public health problems that can have negative economic impacts. The proposed fee increases could create positive economic benefits and improvements in public health and welfare resulting from an adequately funded Title V program. Fee increases that provide sufficient resources for compliance and technical assistance may help avoid public health costs associated with lower compliance and increased air pollution.</p>																																
<p>Impacts to Small Business</p>	<p>The proposed fee increases would directly impact all 116 businesses with Title V</p>																																

<p>(50 or fewer employees – ORS183.310(10))</p>	<p>permits in Oregon. DEQ estimates that approximately 14%, or 16, of Title V permit holders are small businesses with 50 or fewer employees. None of the small businesses holding Title V permits emitted more than 274 tons in the 2008 calendar year. To illustrate the impact of the proposed fees on the highest emitting small business:</p> <ul style="list-style-type: none"> • A source emitting 274 tons paid \$20,274 in 2009. This includes a fee increase of \$890 over fees in rule. • A source emitting 274 tons would pay \$22,063 in 2010, an increase of \$1,789 over 2009 fees. • A source emitting 274 tons would pay \$22,389 in 2011, an increase of \$326 over 2010 fees. <p>The proposed fee increases could indirectly affect the small businesses because the fee increases could be passed through by Title V permit holders, resulting in slight increases in the costs of products or services provided by businesses with Title V permits.</p>	
<p>Cost of Compliance on Small Business (50 or fewer employees – ORS183.310(10))</p>	<p>a) Estimated number of small businesses subject to the proposed rule</p>	<p>Most Title V permit holders are large businesses, but applicability is dependent on potential emission levels rather than business size. Approximately 16 small businesses, such as fiberglass reinforced plastic facilities, landfills and smaller wood refinishing operations, are required to hold Title V permits because their potential emissions exceed Title V applicability thresholds.</p>
<p>b) Types of businesses and industries with small businesses subject to the proposed rule</p>	<p>See answer to (a) above.</p>	
<p>c) Projected reporting, recordkeeping and other administrative activities required by small businesses for compliance with the proposed rule, including costs of professional services</p>	<p>The proposed rule amendments do not establish any additional reporting, recordkeeping or other administrative activities.</p>	
<p>d) The equipment, supplies, labor, and increased administration required by small businesses for compliance with the proposed rule</p>	<p>The proposed rule amendments do not require any additional equipment, supplies, labor or increased administration.</p>	
<p>e) A description of the manner in which DEQ involved small businesses in the development of this rulemaking</p>	<p>DEQ performed outreach to permit holders and DEQ's small business compliance advisory panel in 2007 regarding Title V program funding and the need to increase Title V fees in statute. DEQ worked with fee payer representatives including Associated Oregon Industries and Northwest Pulp and Paper Association on legislation to increase the fees in statute, which the</p>	

		<p>Oregon Legislature adopted in 2007.</p> <p>In September 2010, DEQ will publish information about the proposed rules in newspapers and on its website and use its on-line subscription delivery service to notify the public about the rulemaking proposal. This includes over 2,400 people subscribed to receive updates about air quality rules and the Title V program. DEQ will also send notice of the proposed rulemaking to Title V permit holders and interested parties. DEQ will hold a public hearing in October to provide a forum for Title V permit holders and interested parties to comment on the rule.</p>															
<p>Impacts on Large Business (all businesses that are not "small businesses" under ORS183.310(10))</p>	<p>The proposed fee increases would directly impact large businesses required to have Title V permits. DEQ estimates that approximately 86%, or 100, of Title V permit holders are large businesses with more than 50 employees.</p> <p>The proposed fee increases could also indirectly affect large businesses because the fee increases could be passed through by Title V permit holders, resulting in slight increases in the costs of products or services provided by businesses with Title V permits.</p>																
<p>Impacts on Local Government</p>	<p>The proposed fee increases would directly impact local governments required to have Title V permits. The Metropolitan Service District's St. Johns landfill and the Coos County Solid Waste Department are the only local government entities required to have Title V permits. The table below shows the projected impacts of the proposed fees on invoices issued to these entities. DEQ's projections are based on 2008 emissions and assume that emissions will remain the same in future years.</p> <table border="1" data-bbox="479 1140 1518 1423"> <thead> <tr> <th>Local government entity</th> <th>From fees in rule</th> <th>To 2009 fees (already invoiced)</th> <th>To 2010 fees (to be invoiced)</th> <th>To 2011 fees (to be invoiced)</th> </tr> </thead> <tbody> <tr> <td>Metropolitan Service District St. Johns Landfill</td> <td>\$7,774</td> <td>\$8,131</td> <td>\$9,898</td> <td>\$10,044</td> </tr> <tr> <td>Coos County Solid Waste Department</td> <td>\$13,890</td> <td>\$14,528</td> <td>\$16,307</td> <td>\$16,547</td> </tr> </tbody> </table> <p>The proposed fee increases could indirectly affect local governments because the fee increases could be passed through by Title V permit holders, resulting in slight increases in the costs of products or services provided by businesses with Title V permits.</p>		Local government entity	From fees in rule	To 2009 fees (already invoiced)	To 2010 fees (to be invoiced)	To 2011 fees (to be invoiced)	Metropolitan Service District St. Johns Landfill	\$7,774	\$8,131	\$9,898	\$10,044	Coos County Solid Waste Department	\$13,890	\$14,528	\$16,307	\$16,547
Local government entity	From fees in rule	To 2009 fees (already invoiced)	To 2010 fees (to be invoiced)	To 2011 fees (to be invoiced)													
Metropolitan Service District St. Johns Landfill	\$7,774	\$8,131	\$9,898	\$10,044													
Coos County Solid Waste Department	\$13,890	\$14,528	\$16,307	\$16,547													
<p>Impacts on State Agencies other than DEQ</p>	<p>No state agencies other than DEQ would be directly affected by the proposed fee increases; however, the proposed fee increases could indirectly affect state agencies because the fee increases could be passed through by Title V permit holders, resulting in slight increases in the costs of products or services provided by businesses with Title V permits.</p>																
<p>Impacts on DEQ</p>	<p>DEQ would not incur any additional costs to implement the proposed fee increases. Instead, DEQ would gain additional resources needed to operate its Title V program.</p>																

	The proposed fee increases could indirectly affect DEQ because the fee increases could be passed through by Title V permit holders, resulting in slight increases in the costs of products or services provided by businesses with Title V permits.
Assumptions	Estimated revenue forecasts and expenditures are based on the assumption that DEQ identified all facilities subject to the Title V program and that the number of Title V permits and facility emissions will remain approximately the same as in 2008.
Housing Costs	DEQ determined that the proposed fees may have a negative impact on the development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel if the fees are passed through by Title V permit holders providing products and services for such development and construction. The possible impact appears to be minimal. DEQ cannot quantify the impact at this time because the information available to it does not indicate whether the fees would be passed on to consumers and any such estimate would be speculative.
Administrative Rule Advisory Committee	DEQ did not convene an advisory committee for the proposed rules because Oregon statute authorizes the fee increases and DEQ worked with fee payer representatives on the legislation that increased Title V fees in statute, which the Oregon Legislature adopted in 2007.

 Prepared by

Andrea Curtis _____
 Printed name

September 20, 2010
 Date

 Approved by DEQ Budget Office

Jim Roys _____
 Printed name

September 20, 2010
 Date

Oregon Department of Environmental Quality
Chapter 340 Rulemaking

Land Use Evaluation Statement

Rule Caption:

Title V operating permit fee increases authorized in statute

1. Explain the purpose of the proposed rules.

The proposed rules would:

- Increase Title V fees for 2010 and 2011 and do not require retroactive fee collection;
- Adopt a fee increase for 2009 identical to the August 2009 Environmental Quality Commission temporary rule amendments that allowed the Department of Environmental Quality to invoice Title V permittees on the normal 2009 billing schedule; and
- The fees in the proposed rules reflect a technical correction required by statute.

Federal and state laws require permit fees fund Oregon's entire Title V program. Oregon Revised Statute 468A.315 authorizes Title V fees in the following three categories:

1. An annual base fee assessed to all Title V sources regardless of emission quantities;
2. Emission fees assessed per ton on emissions from individual sources per calendar year; and
3. Specific activity fees assessed when a source owner or operator modifies a permit.

The statute increases the annual base fee beginning in 2010 and gives the commission authority to adjust all of the fee categories by the annual change in the consumer price index.

The Oregon Title V operating permit program requires additional funding to continue protecting Oregon's air quality. Title V permitting helps ensure that permit holders comply with state and federal emissions standards. Revenue from the proposed fees would fund the program through 2012 and help DEQ:

- Issue and renew Title V permits in a timely manner;
- Complete required Title V inspections;
- Monitor and enforce compliance with air quality regulations;
- Comply with federal requirements to maintain a federally approved and delegated Title V program; and
- Issue public notices and information on the Title V program.

2. Do the proposed rules affect existing rules, programs or activities that are considered land use programs in the DEQ State Agency Coordination (SAC) Program?

Yes No

a. If yes, identify existing program/rule/activity:

The proposed rules affect the Oregon Title V operating permit program, which regulates air emissions from industrial businesses.

- b. If yes, do the existing statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules?**

Yes No (if no, explain):

- c. If no, apply the following criteria to the proposed rules.**

Not applicable

In the space below, state if the proposed rules are considered programs affecting land use. State the criteria and reasons for the determination.

Not applicable

- 3. If the proposed rules have been determined a land use program under 2. above, but are not subject to existing land use compliance and compatibility procedures, explain the new procedures the Department will use to ensure compliance and compatibility.**

Not applicable

Oregon Department of Environmental Quality
Chapter 340 Rulemaking

Relationship to Federal Requirements

Rule Caption:

Title V operating permit fee increases authorized in statute

Answers to the following questions identify how the proposed rulemaking relates to federal requirements and the justification for differing from, or adding to, federal requirements. This statement is required by OAR 340-011-0029(1).

1. Is the proposed rulemaking different from, or in addition to, applicable federal requirements? If so, what are the differences or additions?

No. The proposed rulemaking is not different from, or in addition to, applicable federal requirements. The proposed rulemaking implements federal requirements of the Clean Air Act and EPA rules (40 CFR Part 70) that Oregon's Title V operating permit program be fully funded through permit fees.

2. If the proposal differs from, or is in addition to, applicable federal requirements, explain the reasons for the difference or addition (including as appropriate, the public health, environmental, scientific, economic, technological, administrative or other reasons).

Not applicable

3. If the proposal differs from, or is in addition to, applicable federal requirements, did DEQ consider alternatives to the difference or addition? If so, describe the alternatives and the reason(s) they were not pursued.

Not applicable

State of Oregon
Department of Environmental Quality

Memorandum

Date: Oct. 20, 2010
To: Environmental Quality Commission
From: Andrea Curtis
Subject: Written comments
Title of proposal: Title V operating permit fee increases authorized in statute

The public notice period for this rulemaking opened Sept. 20, 2010, and closed Oct. 19, 2010. Four people submitted written comment. Copies of the comments are available upon request.