

**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 accompanies a Notice of Proposed Rulemaking

<b>Title of Proposed Rulemaking</b>	Title V operating permit fee increases authorized in statute Division 220; Division 215
<b>Statutory Authority or other Legal Authority</b>	ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.310 and 468A.315.
<b>Statutes Implemented</b>	ORS Chapters 468 and 468A
<b>Need for the Rule(s)</b>	<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 OAR 340-220-0030 through -0050 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 that could jeopardize DEQ's ability to administer an effective program. Revenue from the proposed fees would fund the program through 2014 and help DEQ:</p> <ul style="list-style-type: none"> <li>• Issue and renew Title V permits in a timely manner;</li> <li>• Complete required Title V inspections;</li> <li>• Monitor and enforce compliance with air quality regulations;</li> <li>• Comply with federal requirements to maintain a federally approved and delegated Title V program; and</li> <li>• Issue public notices and information on the Title V program.</li> </ul> <p>The rulemaking would amend OAR 340-215-0060 regarding greenhouse gas reporting fees to correct references to OAR 340-215-0030 and OAR 340-220-0050.</p>
<b>Documents Relied Upon for Rulemaking</b>	<p>Documents relied upon for this proposal include:</p> <ul style="list-style-type: none"> <li>• 2011-2013 Legislatively approved budget;</li> <li>• 2011-2013 Revenue forecast;</li> <li>• Federal Clean Air Act Amendments of 1990;</li> <li>• Oregon Revised Statutes 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.310 and 468A.315; and</li> <li>• U.S. Department of Labor, Bureau of Statistics, Consumer Price Index through January 2012.</li> </ul> <p>To review copies of these documents, visit DEQ at 811 SW Sixth Avenue, Portland, Oregon 97204 or contact Esther Westbrook at 503-229-6457 or toll free in Oregon at 800-452-4011.</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 risks from toxic air pollutants.

The Oregon Legislature established Oregon's Title V fees in three categories:

- An annual base fee assessed to all Title V sources regardless of emission quantities;
- Emission fees assessed per ton on emissions from individual sources per calendar year; and
- Specific activity fees assessed when a source owner or operator modifies a permit and when sources are required to report greenhouse gas emissions to DEQ.

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 statute authorizes the Environmental Quality Commission to adjust all fee categories by the annual change in the CPI. The commission must amend the fees by rule to reflect the change in the index.

The proposed rulemaking would increase Title V fees for 2012 and 2013 by the changes in the 2011 and 2012 CPI, respectively. The 2011 increase is approximately 2.4%. The data needed to calculate the amount of the 2012 increase will be available in September 2012. DEQ expects it to be comparable to the 2011 increase.

The proposed annual base fees and emission fees are in the table below. The annual base fee is small in comparison to the emission fees paid by most sources. The rulemaking would also increase specific activity fees by the same percentage based on the changes in the CPI, but the specific amounts are not listed in this document. Specific activity fees contribute a small portion of Title V program revenue.

Proposed Title V fees for 2012 and 2013 by fee category:

Fee category	2011 fees in rule (already invoiced)	Proposed 2012 fees (to be invoiced)	<i>Increase over 2011 Fees</i>	Estimated proposed 2013 fees* (to be invoiced)	<i>Estimated increase over 2012 Fees</i>
Annual base fee	\$7,289	\$7,466	\$177 (2.43%)	\$7,647	\$181 (2.43%)
Emission fee (per ton)	\$55.11	\$56.45	\$1.34 (2.43%)	\$57.82	\$1.37 (2.43%)

\* DEQ calculated the estimated fees for the 2013 invoice year using the 2011 change in the CPI. DEQ will calculate the actual 2013 fees when the United States Department of Labor, Bureau of Labor Statistics publishes the 2012 CPI change in September 2012.

The proposed fee increase would affect all 119 sources 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 20% of Title V permit holders emit fewer than 50 tons per year, 56% emit between 50 and 500 tons per year, 22% emit between 500 and 5,000 tons per year and 2% emit greater than 5,000 tons per year.

Proposed Title V fees for 2012 and 2013 by tons of source emissions:

Emissions per calendar year	2011 fees in rule (already invoiced)	Proposed 2012 fees (to be invoiced)	Increase over 2011 fees	Estimated proposed 2013 fees* (to be invoiced)	Estimated increase over 2012 Fees
50 tons	\$10,044	\$10,288	\$244 (2.4%)	\$10,538	\$250 (2.4%)
500 tons	\$34,844	\$35,691	\$847 (2.4%)	\$36,557	\$866 (2.4%)
5,000 tons	\$282,839	\$289,539	\$6,700 (2.4%)	\$296,566	\$7,027 (2.4%)

\* DEQ calculated the estimated fees for the 2013 invoice year using the 2011 change in the CPI. DEQ will calculate the actual 2013 fees when the United States Department of Labor, Bureau of Labor Statistics publishes the 2012 CPI change in September 2012.

**Impacts on the General Public**

DEQ does not anticipate any direct fiscal or economic impacts on the general public to result from the proposed fee increases. 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 data to estimate actual potential increases.

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. Adequate fees support compliance and technical assistance work that may help avoid public health costs associated with lower compliance and increased air pollution.


**Impacts to Small Business (50 or fewer employees –**

The proposed fee increases would directly impact all 119 facilities with Title V permits in Oregon. DEQ estimates that approximately 12%, or 14, 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 220 tons in the 2010 calendar year. To illustrate the

<p>ORS183.310(10))</p>	<p>impact of the proposed fees on the highest emitting small business:</p> <ul style="list-style-type: none"> <li>• A source emitting 220 tons in 2010 paid \$19,411 in 2011, including the annual base fee and emission fees.</li> <li>• A source emitting 220 tons would pay \$19,885 in 2012, an increase of \$474 over 2011 fees.</li> </ul> <p>A source emitting 220 tons would pay an estimated \$20,367 in 2013, an increase of \$482 over 2012 fees. This is an estimate and DEQ will calculate the actual 2013 fees when the United States Department of Labor, <u>Bureau of Labor Statistics</u> publishes the 2012 CPI change September 2012.</p> <p>The proposed fee increases could indirectly affect small businesses if the Title V permit holders increase the costs of products or services to their customers in order to compensate.</p>	
<p><b>Cost of Compliance on Small Business</b>          (50 or fewer employees – ORS183.310(10))</p>	<p>a) Estimated number of small businesses subject to the proposed rule</p>	<p>Approximately 14 small businesses 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>Types of small businesses that would experience a fee increase include fiberglass reinforced plastic facilities, landfills and smaller wood refinishing operations.</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 will involve small businesses during the public notice process. In March 2012, 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. 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 March for Title V permit holders and</p>

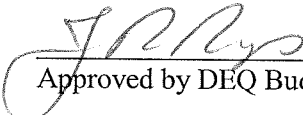
		interested parties to comment on the rule.																
<b>Impacts on Large Business</b> (all businesses that are not "small businesses" under ORS183.310(10))	<p>The proposed fee increases would directly impact large businesses required to have Title V permits. DEQ estimates that approximately 82%, or 98, of Title V permit holders are large businesses with more than 50 employees. See the Overview section above for estimates of the proposed fee increases that will affect large businesses.</p> <p>The proposed fee increases could indirectly affect large businesses if the Title V permit holders increase the costs of products or services to their customers in order to compensate.</p>																	
<b>Impacts on Local Government</b>	<p>The proposed fee increases would directly impact local governments required to have Title V permits. There are three landfills operated by local government entities that are 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 2010 emissions and assume that emissions will remain the same in future years.</p> <p>Proposed Title V fees for 2012 and 2013 for local governments:</p> <table border="1"> <thead> <tr> <th>Local government entity</th> <th>2011 fees (already invoiced)</th> <th>Proposed 2012 fees (to be invoiced)</th> <th>Estimated Proposed 2013 fees* (to be invoiced)</th> </tr> </thead> <tbody> <tr> <td>Metropolitan Service District St. Johns Landfill</td> <td>\$7,289</td> <td>\$7,466</td> <td>\$7,647</td> </tr> <tr> <td>Coos County Solid Waste Department</td> <td>\$16,490</td> <td>\$16,893</td> <td>\$17,302</td> </tr> <tr> <td>Deschutes County Solid Waste Department</td> <td>\$9,438</td> <td>\$9,667</td> <td>\$9,901</td> </tr> </tbody> </table> <p>* DEQ calculated the estimated fees for the 2013 invoice year using the 2011 change in the CPI. DEQ will calculate the actual 2013 fees when the United States Department of Labor, <u>Bureau of Labor Statistics</u> publishes the 2012 CPI change in September 2012.</p> <p>The proposed fee increases could indirectly affect local governments if Title V permit holders increase the costs of products or services to their customers in order to compensate.</p>		Local government entity	2011 fees (already invoiced)	Proposed 2012 fees (to be invoiced)	Estimated Proposed 2013 fees* (to be invoiced)	Metropolitan Service District St. Johns Landfill	\$7,289	\$7,466	\$7,647	Coos County Solid Waste Department	\$16,490	\$16,893	\$17,302	Deschutes County Solid Waste Department	\$9,438	\$9,667	\$9,901
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<b>Impacts on State Agencies other than DEQ</b>	<p>No state agencies other than DEQ would be directly affected by the proposed fee increases. The proposed fee increases could indirectly affect state agencies if Title V permit holders increase the costs of products or services to their customers in order to compensate.</p>																	
<b>Impacts on DEQ</b>	<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. The proposed fee increases could indirectly affect DEQ if Title V permit holders increase the costs of products or services to their customers in order to compensate.</p>																	

<p><b>Assumptions</b></p>	<p>DEQ estimated revenue forecasts and expenditures 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 invoiced in 2011.</p> <p>DEQ estimated the 2012 change in the CPI will be the same as the 2011 change based on the assumption that the annual change will be relatively constant from 2011 to 2012. DEQ will calculate the 2013 fee when the United States Department of Labor, Bureau of Labor Statistics publishes the 2012 CPI change in September 2012.</p>
<p><b>Housing Costs</b></p>	<p>The proposed fees could have a negligible 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 Title V permit holders increase the cost of products and services to compensate for the fee increase. DEQ lacks available data about whether the fees would be passed on to consumers.</p>
<p><b>Administrative Rule Advisory Committee</b></p>	<p>DEQ did not convene an advisory committee for the proposed rules because Oregon statute authorizes the fee increases. DEQ worked with fee payer representatives on the 2007 legislation that increased Title V fees in statute.</p>

  
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2/14/12  
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