



# Oregon Department of Environmental Quality

## Permanent Rule Proposal For: Updating Oregon's air quality rules to address federal regulations►

### Overview

#### Brief history

The clean air act requires the U.S. Environmental Protection Agency to establish National Emission Standards for Hazardous Air Pollutants for both major and area sources of hazardous air pollutants. EPA finished establishing major source standards in 2004. EPA began establishing area source standards in 2006 and concluded in 2011, but they may adopt additional NESHAPs in the future for new source categories or source categories they may have missed. EPA may also revise NESHAPs to address errors, implementation issues, and lawsuits.

EPA is required to perform a residual risk analysis for major source NESHAPs and periodic technology reviews for New Source Performance Standards and NESHAPs. These reviews are ongoing and in some cases result in EPA making the standards more stringent.

The EQC is adopting the area source standards in five phases. The first three phases concluded in December 2008, December 2009, and February 2011. This rulemaking is phase four of five. The adoption of new and amended NSPSs and NESHAPs is an ongoing process.

#### Short summary

The proposed rules would adopt new and amended federal air quality regulations and related permit rules. This includes adopting new national standards for electric utility steam generating units, gold mine ore processing and production, polyvinyl chloride and copolymers production, and sewage sludge incinerators, as well as changes to the federal gasoline dispensing facility rules. The rulemaking proposal would also clarify when and if Air Contaminant Discharge Permits are required for sources subject to NSPS and NESHAP.

#### Regulated parties

This rulemaking regulates:

- a. Facilities subject to a newly promulgated NESHAP or NSPS: electric utility steam generating units, gold mine ore processing and production, polyvinyl chloride and copolymers production, and sewage sludge incinerators;
- b. Facilities subject to recently amended NESHAPs or NSPSs: gasoline dispensing facilities that dispense gasoline into non-road vehicles and non-road engines; gasoline distribution bulk terminals; bulk plants; pipeline facilities; mineral wool production; plating and polishing operations, portland cement manufacturing; prepared feed manufacturing; primary

lead smelting; shipbuilding and ship repair; and electric utility, industrial, commercial, and institutional steam generating units;

- c. Facilities required to maintain an ACDP and are subject to a NESHAP or NSPS not yet adopted by the EQC, DEQ's environmental rulemaking board;
- d. Unpermitted facilities that are subject to a NSPS not yet adopted by the EQC;
- e. NESHAP or NSPS affected facilities subject to only procedural requirements;
- f. NESHAP affected chemical manufacturing facilities that are only required to meet work practice standards;
- g. NESHAP affected paint stripping and surface coating operations using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year;
- h. Unpermitted metal fabrication and finishing operations;
- i. Permitted crematories; and
- j. Facilities affected by the federal accidental release prevention program.

## Outline

### **1. Align Oregon's Rules with Recent Changes to Federal Emission Standards**

- a. Adopt by reference new federal area source NESHAPs for gold mine ore processing and production; new federal major source NESHAP for electric utility steam generating units; new federal major source NESHAP for polyvinyl chloride and copolymers production; and new federal NSPS for sewage sludge incineration units;
- b. Incorporate changes EPA made to the federal gasoline dispensing facility NESHAP;
- c. Update the adoption by reference of previously adopted NESHAPs and NSPSs; and
- d. Remove monitoring, recordkeeping and reporting requirements in Oregon's Utility Mercury Rule and replace them with references to the monitoring, recordkeeping and reporting requirements in the Electric Utility Steam Generating Unit NESHAP.

### **2. Changes to the Air Contaminant Discharge Permitting Program**

- a. Remove a requirement for DEQ to include federal emission standards in ACDPs even when the federal standards have not been adopted by the EQC;
- b. Remove a requirement for affected facilities to obtain an ACDP if the facilities are only subject to federal NSPS standards that have not been adopted by the EQC;
- c. Exempt from permitting: facilities subject to only procedural requirements, such as notification that the facility is affected by an NSPS or NESHAP; chemical manufacturing facilities only subject to work practice standards; and paint stripping and surface coating operations using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year; and
- d. Give DEQ the ability to add new requirements to Simple or Standard ACDPs by assigning the source to a General ACDP Attachment.

### 3. Clarify and Clean-up Rules

- a. Align the late fees for the registration and ACDP programs;
- b. Clarify the permitting requirements for metal fabrication and finishing operations;
- c. Remove redundant general permit fee class assignments for halogenated solvent cleaners;
- d. Remove redundant gasoline dispensing facility control requirements in OAR 340 Division 232;
- e. Reassign crematories to General ACDP fee class one (crematories were inadvertently assigned to fee class two in a previous rulemaking); and
- f. Repeal DEQ's accidental release prevention rule.

## Statement of need

What problem is DEQ trying to solve?

### 1. Recent Changes to Federal Emission Standards

EPA has identified electric utility steam generating units, gold mine ore processing and production, and polyvinyl chloride and copolymers production as emitters of one or more hazardous air pollutants, including mercury. Mercury can impair neurological development and cause neurological damage, and is a toxic of concern in Oregon. The proposal addresses this by adopting the new federal standards by reference.

In the gasoline dispensing facility NESHAP, EPA defined "gasoline dispensing facility" as a facility that dispenses gasoline into a "motor vehicle", but failed to define "motor vehicle". The Clean Air Act defines a "motor vehicle" as an "on-road vehicle". Limiting applicability of the NESHAP to facilities that dispense gasoline into "on-road vehicles" is not what EPA intended. Therefore, EPA amended the NESHAP to clarify that it also applies to facilities that dispense gasoline into "non-road vehicles" and "non-road engines". Oregon's gasoline dispensing rules that implement the NESHAP currently only apply to facilities that dispense gasoline into "on-road vehicles". The proposal addresses this by revising the definition of "gasoline dispensing facility" to include facilities that dispense gasoline into both on-road and non-road vehicles and engines.

EPA has adopted amendments to several federal standards that are adopted by reference in Oregon's rules. DEQ cannot enforce standards that haven't been adopted by the EQC. In order to maintain federal delegation, the EQC is required to adopt the most recent version of the federal standards. Affected businesses benefit by having DEQ implement federal standards locally. These benefits include technical assistance and quicker approval of requests for applicability determinations and alternative testing, monitoring, recordkeeping and reporting. The proposal addresses this by updating the adoption of existing federal standards by reference.

The electric utility steam generating unit NESHAP overlaps Oregon's utility mercury rule. The result of this overlap is different mercury emission limits and conflicting monitoring, recordkeeping, and reporting requirements. The proposal addresses this by removing the monitoring, recordkeeping and reporting requirements in Oregon's rule and replacing them with references to the monitoring, recordkeeping and reporting requirements in the NESHAP.

## **2. Need to Make Changes to the Air Contaminant Discharge Permitting Program**

Adoption of new federal standards by EPA triggers a requirement that DEQ incorporate the standards into the permits of affected facilities. DEQ will need time to incorporate the new standards into permits, decide which standards are better implemented on the federal level, and determine which standards provide the greatest environmental benefit. The proposal addresses this by requiring EQC adoption of new federal standards prior to DEQ incorporating them into ACDPs.

Adoption of a new NSPS by EPA triggers a requirement that affected facilities obtain a permit. DEQ needs time to incorporate these requirements into permits and to improve the timeliness and efficiency of the ACDP program. The proposal addresses this by requiring EQC adoption of a new NSPS to trigger the requirement that affected facilities obtain a permit.

The permitting of sources subject only to procedural requirements, such as notification that the source is affected by a NESHAP or NSPS, places a burden on DEQ and affected sources. The proposal addresses this by exempting from permitting facilities that are only subject to procedural requirements.

Currently, all facilities subject to the area source NESHAP for chemical manufacturing are required to obtain a permit. During the process of identifying affected facilities, DEQ discovered that there is one facility in Oregon that is subject to the NESHAP, but the company is only doing bench scale production and is subject to only work practice standards, not to the more substantive requirements of the NESHAP. The proposal addresses this by exempting from permitting NESHAP affected chemical manufacturing facilities only subject to work practice standards.

Motor vehicle surface coating operations subject to the paint stripping and miscellaneous surface coating operation NESHAP and using less than 20 gallons of coating per year are exempt from permitting. However, other surface coating operations subject to the paint stripping and miscellaneous surface coating operation NESHAP are subject to permitting regardless of how much coating they use. The proposal addresses this by exempting from permitting NESHAP affected surface coating operations using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year.

## **3. Need to Clarify and Clean-up Rules**

There is an ongoing need to clarify and make corrections to existing rules when confusing language or errors are discovered. The proposal addresses this by aligning the late fees for the registration and ACDP programs; clarifying the permitting requirements for metal fabrication and finishing operations; removing redundant general permit fee class assignments for halogenated solvent cleaners; removing redundant gasoline dispensing facility control requirements in OAR 340 Division 232; and reassigning crematories to General ACDP fee class one (crematories were inadvertently assigned to fee class two in a previous rulemaking).

DEQ adopted the Accidental Release Prevention rule in Division 244 before EPA adopted the federal Accidental Release Prevention rules. The federal Accidental Release Prevention rules

were not subsequently adopted into DEQ rules because DEQ determined that this program is better implemented by federal and other state agencies, except for DEQ to ensure that affected Title V sources submit their risk management plan to EPA. The proposal addresses this by repealing DEQ's accidental release prevention rule.

How would the proposed rules solve the problem?

The proposed rule changes would update DEQ's rules to reflect new and amended federal standards and also allow DEQ to: better manage workload; spread out permitting over time; focus on federal standards with the greatest environmental benefit; and decline to implement federal standards that are not substantive or that are better implemented by EPA on the federal level.

These rule changes will further DEQ's strategic direction to protect Oregonian's from toxic pollutants by creating efficiencies and updating our rules consistent with federal rules so that we can focus resources on reducing toxic air pollution and risk to public health.

How will DEQ know the problem has been solved?

Upon adoption by the EQC, DEQ will submit the rules to EPA to update our NSPS and NESHAP delegation and our State Implementation Plan. DEQ will know the problem is solved when EPA approves the delegation request and SIP revision.

Request for other options

During the public comment period, DEQ requests public comment on whether to consider other options for achieving the rules' substantive goals while reducing any negative economic impact of the rules on business.

## Federal relationship

*"It is the policy of this state that agencies shall seek to retain and promote the unique identity of Oregon by considering local conditions when an agency adopts policies and rules. However, since there are many federal laws and regulations that apply to activities that are also regulated by the state, it is also the policy of this state that agencies attempt to adopt rules that correspond with equivalent federal laws and rules..."*

ORS 183.332  
OAR 340-011-0029  
ORS 468A.327

**Discuss HOW the proposal is different from or in addition to federal requirements.**

### **1. Align Oregon's Rules with Recent Changes to Federal Emission Standards**

For the most part, these changes would adopt federal air quality requirements by reference. However, this rulemaking proposes amendments to existing rules that are different from or in addition to the federal requirements for gasoline dispensing facilities and electric utilities.

Oregon's existing gasoline dispensing facility rules implement the federal air quality requirements for gasoline dispensing facilities. Oregon's existing gasoline dispensing facility rules are also different from and in addition to the federal requirements because they have a lower applicability threshold for stage I emissions controls and ban the practice of "topping off". While this proposal does not make any revisions to requirements in Oregon's existing

gasoline dispensing facility rules, it does potentially require more facilities to comply with the existing requirements that are different from or in addition to the federal rules.

Oregon's existing utility mercury rule is different from the new utility steam generating unit NESHAP because it has more stringent mercury limits and different monitoring, recordkeeping, and reporting requirements. The proposed changes eliminate a difference from the federal rules by replacing the monitoring, recordkeeping and reporting requirements in Oregon's utility mercury rule with references to the monitoring, recordkeeping and reporting requirements in the electric utility steam generating unit NESHAP. The proposed rules also retain the more stringent mercury emission limits in Oregon's utility mercury rule.

## **2. Changes to Air Contaminant Discharge Permitting Program**

For EPA to approve delegation of the federal requirements, Oregon must have procedures and resources to ensure compliance. For major sources, federal law requires affected sources to have Title V permits. However, for area sources, federal law provides flexibility on how states will ensure compliance. For the most part, Oregon uses the ACDP program for this purpose, including Standard, Simple and General ACDPs. Because the federal program only requires an operating permit for major sources under Title V, all provisions of this rulemaking that modify Oregon's ACDP program are in addition to the federal requirements. The proposed changes modify who must obtain an ACDP, the requirements included in an ACDP and the fee schedule for ACDPs.

## **3. Clarify and Clean-up Rules**

Because the federal program only requires an operating permit for major sources under Title V, all provisions of this rulemaking that modify Oregon's registration program are in addition to the federal requirements. The proposed changes align the late fees for the registration and ACDP programs.

The proposed removal of Oregon's accidental release prevention rule is the same as federal requirements because the federal accidental release prevention rules will apply in Oregon in the absence of Oregon's accidental release prevention rule.

The proposed changes that clarify the permitting requirements for metal fabrication and finishing operations, remove redundant general permit fee class assignments for halogenated solvent cleaners, and reassign crematories to General ACDP fee class one, are in addition to the federal requirements because they involve changes to the ACDP program rules.

## **Discuss WHY the proposal is different from or in addition to federal requirements.**

### **1. Align Oregon's Rules with Recent Changes to Federal Emission Standards**

The proposed changes to Oregon's gasoline dispensing rules incorporate changes EPA made to the federal gasoline dispensing facility NESHAP by extending applicability to facilities that dispense gasoline into "non-road vehicles" and "non-road engines". Newly affected gasoline dispensing facilities would be subject to Oregon's gasoline dispensing facility rules, which are more stringent than the federal rules. Oregon's gasoline dispensing facility rules

require additional emission reductions to protect public and worker health, help prevent future violations of ambient air quality standards, and take advantage of existing emission control equipment.

The proposed rules retain the more stringent mercury emission limits in Oregon's utility mercury rule. Several water bodies in Oregon currently have fish consumption advisories issued by Oregon Department of Health Services (DHS) warning anglers to limit their intake of native fish species because of increased mercury concentrations in fish tissue. Retaining Oregon's more stringent mercury emission limits minimize the impact of coal-fired power plants on mercury concentrations in fish.

## **2. Changes to Air Contaminant Discharge Permitting Program**

Because Oregon uses the ACDP program to implement federal standards for sources that are not required to obtain a Title V permit, Oregon's rules must specify which sources must obtain an ACDP, what requirements are included in the ACDP and the fee schedule for ACDPs. The proposed changes to the ACDP program reduce the economic impact of permitting on small businesses, the workload of incorporating new requirements into multiple permits, and the total number of permits that DEQ must administer.

## **3. Clarify and Clean-up Rules**

The purpose of the proposed changes is to clarify, remove redundancy and cleanup the registration and ACDP rules.

### **What alternatives did DEQ consider?**

#### **1. Align Oregon's Rules with Recent Changes to Federal Emission Standards**

DEQ considered not taking delegation for some federal standards. However, with the exception of the federal standards regulating stationary internal combustion engines, DEQ rejected this alternative because it would reduce compliance and assistance to Oregon sources. DEQ also considered making state specific changes to some federal standards, but rejected this alternative because the federal rules address Oregon's immediate concerns and consistency with the federal rules reduces cost and complexity for affected sources.

DEQ considered not expanding Oregon's gasoline dispensing facility rules to also apply to facilities that dispense gasoline into "non-road vehicles" and "non-road engines". DEQ rejected this alternative because it does not align Oregon rules with EPA rules and would result in DEQ not receiving delegation of the federal rules.

DEQ considered repealing Oregon's utility mercury rule. DEQ rejected this alternative because the mercury limits in the utility mercury rule are more stringent than the mercury limits in the electric utility steam generating unit NESHAP. DEQ also considered retaining the monitoring, recordkeeping, and reporting requirements in the utility mercury rule. DEQ rejected this alternative because the monitoring, recordkeeping, and reporting requirements in the utility mercury rule were taken from the vacated federal clean air mercury rule and either overlap or conflict with the monitoring, recordkeeping, and reporting requirements in the electric utility steam generating unit NESHAP.



## 2. Changes to Air Contaminant Discharge Permitting Program

DEQ considered retaining the definition of applicable requirement to include federal standards not adopted by the EQC. DEQ rejected this alternative because retaining the definition makes it difficult for DEQ to manage workload, does not allow DEQ to focus its resources on standards with the greatest environmental benefit, and requires DEQ implementation of standards that are not substantive or that are better implemented by EPA.

DEQ considered retaining the requirement that facilities affected by an NSPS obtain a standard ACDP, regardless of whether the EQC has adopted the NSPS. DEQ rejected this alternative because the NSPS would be triggered before DEQ is able to consider and implement less expensive and burdensome implementation options.

DEQ considered retaining the permitting requirement for facilities subject only to procedural requirements, chemical manufacturing facilities subject only to work practice standards, and paint stripping and surface coating operations using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year. DEQ rejected this alternative because the permitting requirement places an excessive burden on these facilities for little to no environmental benefit.

## 3. Clarify and Clean-up Rules

DEQ considered retaining Oregon's accidental release prevention rule or adopting the federal accidental release prevention rule by reference. DEQ rejected retaining Oregon's accidental release prevention rule because it predated and is a placeholder for the federal accidental release prevention rule. DEQ rejected adopting the federal accidental release prevention rule by reference because the rule is best implemented by EPA and other state agencies. In August 2011, DEQ entered into a Memorandum of Agreement with EPA and other parties that addresses DEQ's role in the program, which is limited to ensuring that affected Title V sources submit their risk management plan to EPA.

### Rules affected, authorities, and supporting documents

Lead division

Program or activity

Air Quality

Program Operations section

Chapter 340 action▶

Recommendation▶	Division	Rule	Title	SIP/Land use*
amend	200	0020	General Air Quality Definitions	SIP
amend	200	0040	State of Oregon Clean Air Act Implementation Plan	SIP
amend	210	0100	Registration in General	SIP
amend	216	0020	Applicability	Land use and SIP
amend	216	0020	Table 1	Land use and SIP



amend	216	0060	General Air Contaminant Discharge Permits	Land use and SIP
amend	216	0062	General Air Contaminant Discharge Permit Attachments	Land use and SIP
amend	216	0064	Simple Air Contaminant Discharge Permits	Land use and SIP
amend	216	0066	Standard Air Contaminants Discharge Permits	Land use and SIP
amend	228	0602	Definitions	
amend	228	0606	Hg Emission Standards	
amend	228	0609	General Requirements	
amend	228	0635	Recordkeeping	
amend	228	0637	Reporting	
amend	232	0085	Gasoline Delivery Vessel(s)	SIP
amend	238	0040	Definitions	
amend	238	0060	Federal Regulations Adopted by Reference	
amend	244	0030	Definitions	
amend	244	0210	Emissions Limitation for Existing Sources	
amend	244	0220	Federal Regulations Adopted by Reference	
amend	244	0234	Affected Sources	SIP
amend	244	0238	Compliance Dates	SIP
amend	244	0240	Work Practice and Submerged Fill Requirements	SIP
amend	244	0242	Vapor Balance Requirements	SIP
amend	244	0242	Table 4	SIP
amend	244	0242	Table 5	SIP
amend	244	0244	Testing and Monitoring Requirements	SIP
amend	244	0246	Notifications	SIP
amend	244	0248	Recordkeeping Requirements	SIP
amend	244	0250	Reporting Requirements	SIP
adopt	216	0068	Simple and Standard ACDP Attachments	SIP
adopt	244	0239	General Duties to Minimize Emissions	
repeal	228	0611	Additional Requirements to Provide Heat Input	
repeal	228	0613	Monitoring of Hg Mass Emissions and Heat Input at the Unit Level	
repeal	228	0615	Monitoring of Hg Mass Emissions and Heat Input at Common and Multiple Stacks	
repeal	228	0617	Special Provisions for Measuring Hg Mass Emissions using the Sorbent Trap Monitoring Methodology	
repeal	228	0619	Procedures for Hg Mass Emissions	
repeal	228	0621	Initial Certification and Recertification Procedures	
repeal	228	0623	Quality Assurance and Quality Control Requirements	
repeal	228	0625	Specifications and Test Procedures for Total Vapor Phase Mercury CEMS	
repeal	228	0627	Quality Assurance and Operating Procedures for Sorbent Trap Monitoring Systems	
repeal	228	0629	Out of Control Periods and Adjustment for System Bias	
repeal	228	0631	Standard Missing Data Procedures for Hg CEMS	
repeal	228	0633	Missing Data Procedures for Sorbent Trap Monitoring Systems	
repeal	244	0230	Accidental Release Program	
repeal	244	0230	Table 3	

\* SIP – this rule is part of the State Implementation Plan.

\* Land use – DEQ State Agency Coordination Program considers this rule, program or activity is a land use program.

#### Statute implemented►

ORS 468.020, 468A.025, 468A.035, 468A.040, 468A.050 and 468A.310

#### Statutory or other legal authority►

ORS 468.020, 468A.025, 468A.035, 468A.040, 468A.050 and 468A.310

## Statement of fiscal and economic impact

## ORS 183.335 (2)(b)(E)

### 1. Impacts on the general public

Indirect impact: the general public could be indirectly impacted by the proposed rule changes as large and small businesses pass along increased or decreased costs in the form of price changes for goods and services.

Direct impact: the general public would not be directly affected by the proposed rule changes.

### 2. Impacts on small businesses with 50 or fewer employees. ORS 183.336

Indirect impact: small businesses could be indirectly impacted by the proposed rule changes as other businesses pass along increased or decreased costs in the form of price changes for goods and services.

Direct impact: small businesses might see increased or decreased costs due to the proposed rule changes and as follows:

#### **1. Align Oregon's Rules with Recent Changes to Federal Emission Standards**

- a. Adopt by reference new federal area source NESHAPs for gold mine ore processing and production; new federal major source NESHAP for electric utility steam generating units; new federal major source NESHAP for polyvinyl chloride and copolymers production; and new federal NSPS for sewage sludge incineration units;

DEQ anticipates that there will be no fiscal and economic impacts as a result of adopting the new federal standards because the fiscal and economic impacts occurred when EPA adopted the rules. EPA has evaluated the fiscal and economic effects of their rules and lists those effects in the preambles to their regulations.

- b. Incorporate changes EPA made to the federal gasoline dispensing facility NESHAP;

DEQ anticipates that there could be a negative fiscal and economic impact as a result of adopting these changes because the changes extend the gasoline dispensing facility rules to facilities that dispense gasoline into "non-road vehicles" and "non-road engines" and because the newly affected gasoline dispensing facilities will be subject to Oregon's more stringent, but existing, gasoline dispensing facility rules and permitting. DEQ cannot quantify this impact at this time because the available information does not indicate how many facilities would trigger control requirements or permitting. However, the majority of affected facilities have small tanks and aren't likely to have gasoline throughputs that would trigger control requirements or permitting. Therefore, the fiscal and economic impact is not expected to be significant.

- c. Update the adoption by reference of previously adopted NESHAPs and NSPSs;

DEQ anticipates that there will be no fiscal and economic impacts as a result of updating previously adopted federal standards because the fiscal and economic impacts occurred when EPA adopted the rule amendments. EPA has evaluated the fiscal and economic effects of their rules and lists those effects in the preambles to their regulations.

- d. Remove monitoring, recordkeeping and reporting requirements in Oregon's Utility Mercury Rule and replace them with references to the monitoring, recordkeeping and reporting requirements in the Electric Utility Steam Generating Unit NESHAP.

DEQ anticipates that there will be no fiscal and economic impact as a result of adopting these changes because they align the monitoring, recordkeeping and reporting requirements in Oregon's Utility Mercury Rule with the monitoring, recordkeeping and reporting requirements in the federal utility NESHAP.

## **2. Changes to the Air Contaminant Discharge Permitting Program**

- a. Remove a requirement for DEQ to include federal emission standards in ACDPs even when the federal standards have not been adopted by the EQC;

DEQ anticipates that there will be a positive fiscal and economic impact as a result of adopting this change because it would improve the efficiency of the ACDP program.

- b. Remove a requirement for affected facilities to obtain an ACDP if the facilities are only subject to federal NSPS standards that have not been adopted by the EQC;

DEQ anticipates that there will be a positive fiscal and economic impact as a result of adopting this change because it would improve the efficiency of the ACDP program and also result in fewer sources having to get a permit and pay permitting fees.

- c. Exempt from permitting: facilities subject to only procedural requirements, such as notification that the facility is affected by an NSPS or NESHAP; chemical manufacturing facilities only subject to work practice standards; and paint stripping and surface coating operations using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year; and

DEQ anticipates that there will be a positive fiscal and economic impact as a result of adopting these changes because it would result in fewer sources having to get a permit and pay permitting fees.

- d. Give DEQ the ability to add new requirements to Simple or Standard ACDPs by assigning the source to a General ACDP Attachment.

DEQ anticipates that there will be a positive fiscal and economic impact as a result of adopting this change because it would improve the efficiency of the ACDP program and in some cases would allow permittees to avoid having to pay special activity fees to have the new requirements incorporated into their permits.

## **3. Clarify and Cleanup Rules**

- a. Align the late fees for the registration and ACDP programs;

DEQ anticipates that there will be a positive fiscal and economic impact as a result of adopting this change because late fees would apply eight days after a source misses a

deadline for submitting fees instead of immediately after the deadline, so some sources will avoid late fees altogether by paying fees within the grace period.

- b. Clarify the permitting requirements for metal fabrication and finishing operations;

DEQ anticipates that there will be no fiscal and economic impact as a result of adopting this change because it corrects an error made in a previous rulemaking. This change would not result in any new permittees or any permittees paying higher fees.

- c. Remove redundant general permit fee class assignments for halogenated solvent cleaners;

DEQ anticipates that there will be no fiscal and economic impact as a result of adopting this change because it would not decrease or increase the fees for halogenated solvent cleaners.

- d. Remove redundant gasoline dispensing facility control requirements in OAR 340 Division 232;

DEQ anticipates that there will be no fiscal and economic impact as a result of adopting this change because the gasoline dispensing facility requirements in Division 232 are redundant to the gasoline dispensing facility requirements in Division 244.

- e. Reassign crematories to General ACDP fee class one (crematories were inadvertently assigned to fee class two in a previous rulemaking); and

DEQ anticipates that there will be no fiscal and economic impact as a result of adopting this change because it corrects a fee class assignment which DEQ inadvertently changed in a previous rulemaking and crematories have continued to pay class one fees.

- f. Repeal DEQ's accidental release prevention rule.

DEQ anticipates that there will be no fiscal and economic impact as a result of adopting this change because it only removes a placeholder rule for the federal accidental release prevention rules, which are in place and would continue to apply to Oregon businesses.

a) Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.

Estimated number of small business subject to proposed rules: chemical manufacturing facilities subject only to work practice standards (1); paint stripping and surface coating operations using less than 20 gallons of coating and 20 gallons of methylene chloride paint stripper per year (2); gasoline dispensing facilities that dispense gasoline into "non-road vehicles" and "non-road engines" (223); new federal area source NESHAP for gold mine ore processing and production (0); new federal major source NESHAP for electric utility steam generating units (1); new federal major source NESHAP for polyvinyl chloride and copolymers production (0); and new federal NSPS for sewage sludge incineration units (0).

b) Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.

The adoption of new and amended federal standards do not add any new reporting, recordkeeping and other administrative activities other than those already required by the federal standards. The requirement that facilities dispensing gasoline into "non-road vehicles" and "non-road engines" comply with the more stringent Oregon

gasoline dispensing facility requirements and obtain a permit may increase the reporting, recordkeeping and other administrative activities or costs of professional services on small businesses. This impact was mitigated in a previous rulemaking by exempting facilities that dispense less than 10,000 gallons per month of gasoline from permitting. The majority of these facilities have small tanks and are not likely to have throughputs that would trigger Oregon's more stringent control requirements and permitting. Therefore, the impact is not expected to be significant.

c) Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.

The adoption of new and amended federal standards would not require small businesses to add any equipment, supplies, labor or administration because the federal standards apply in Oregon upon EPA's adoption. The requirement that facilities dispensing gasoline into "non-road vehicles" and "non-road engines" comply with the more stringent Oregon gasoline dispensing facility requirements and obtain a permit may require small businesses to add equipment, supplies, labor or administration. This impact was mitigated in a previous rulemaking by exempting facilities that dispense less than 10,000 gallons per month of gasoline from permitting. The majority of these facilities have small tanks and are not likely to have throughputs that would trigger Oregon's more stringent control requirements and permitting. Therefore, the impact is not expected to be significant.

d) Describe how DEQ involved small businesses in developing this proposed rule.

DEQ did not hold an official advisory committee for this rulemaking because the rulemaking would primarily adopt federal regulations by reference. DEQ previously met with various groups representing small businesses to discuss DEQ's implementation strategy for the new area source NESHAPs.

3. Impact on large businesses (all businesses that are not small businesses under 2 above)

Any fiscal and economic impacts on large businesses are expected to be the same as those estimated for small businesses.

4. Impact on local government other than DEQ

Direct impact: any direct fiscal and economic impacts on local governments that operate facilities subject to federal emission standards are expected to be the same as those estimated for small businesses.

Indirect impact: local governments could be indirectly impacted by the proposed rule changes as large and small businesses pass along increased or decreased costs in the form of price changes for goods and services

Also, all Oregon cities and counties could be indirectly impacted by the requirement that businesses affected by new federal requirements obtain a permit. This is because businesses throughout the state are

required to submit a Land Use Compatibility Statement with their permit application, and local governments process those Land Use Compatibility Statements. Some cities and counties charge a fee to complete the Land Use Compatibility Statement and therefore may have sufficient revenue to cover the added workload. Those cities that don't charge a fee, or that don't charge sufficient fees to cover their costs, may have new workload without additional revenue. DEQ does not have adequate information to estimate these fiscal impacts at this time.

#### 5. Impacts on DEQ

Direct impact: Implementing the federal rules will require DEQ to provide technical assistance, issue permits, perform inspections, and issue formal enforcement actions against violators. This work will be implemented by existing staff, funded by revenue from permit fees. The rule amendments that exempt sources from permitting or lower fees will reduce net revenue, while the rule amendments that incorporate standards for previously unpermitted sources will increase net revenue. DEQ does not have adequate information to estimate the net change in revenue, but expects that it will not be significant.

Indirect impact: The indirect cost impacts on DEQ are expected to be the same as those estimated for small businesses.

#### Documents relied on for fiscal and economic impact

DEQ relied primarily on the Federal Register, the Code of Federal Regulations, and the Oregon Revised Statutes, in developing this rulemaking proposal. Copies of the documents relied upon in the development of this rulemaking proposal can be reviewed at DEQ's office at 811 S.W. 6th Avenue, Portland, Oregon. Please contact Jerry Ebersole for times when the documents are available for review.

#### Advisory committee

DEQ did not hold an official advisory committee for this rulemaking because the rulemaking would primarily adopt federal regulations by reference.

#### Housing Cost

To comply with ORS 183.534, DEQ has determined that the requirement that facilities dispensing gasoline into "non-road vehicles" and "non-road engines" comply with the more stringent Oregon gasoline dispensing facility requirements and obtain a permit may have a negative impact on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single-family dwelling on that parcel. The negative impact could occur if the cost of emission controls and permitting fees are passed through by permit holders providing products and services for such development and construction. The possible impact appears to be minimal. DEQ cannot quantify this impact at this time because the available information does not indicate whether the permit fees would be passed on to consumers and any such estimate would be speculative.

## Fees

The proposed rules do not affect fees.

The proposal does not change fee levels or create new fee categories, but it does revise the fee category applicable to crematories required to obtain ACDP permits and changes the date late fees are triggered in the registration program.

*“It is the Commission's policy to coordinate the Department's programs, rules and actions that affect land use with local acknowledged plans to the fullest degree possible.”*

OAR 340-018  
ORS 197.180  
OAR 660-030

### Land use considerations

To determine whether the proposed rules involve programs or actions that are considered a *land-use program*, DEQ considered the following.

- The statewide planning goals for specific references. Section III, subsection 2 of the DEQ State Agency Coordination (SAC) Program document identifies the following statewide goals that relates to DEQ's authority:

Goal	Title
6	Air, Water and Land Resources Quality
5	Open Spaces, Scenic and Historic Areas, and Natural Resources
11	Public Facilities and Services
16	Estuarian resources
19	Ocean Resources

- OAR 340-018-0030 for programs or actions that relate to the proposed rules.
- DEQ's mandate to protect public health and safety and the environment.
- Whether DEQ is the primary authority that is responsible for land use programs or actions in the proposed rules.
- Present or future land uses identified in acknowledged comprehensive plans.

### Determination

The following DEQ State Agency Coordination Program information applies to the proposed rules marked as *Land Use* under the 'Chapter 340 Action' section above

Planning Goal:	6. Air, Water and Land Resources Quality
Land Use activity:	4. Issuance of an Air Quality Contaminant Discharge Permit

DEQ will implement the proposed standards for major source categories through DEQ's Title V Operating Permit program and the standards for non-major source categories through DEQ's ACDP program.

DEQ's statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules. DEQ will implement these rules through the ACDP and Title V permitting programs. Currently, pursuant to EQC rules, cities and counties must provide a Land Use Compatibility Statement before DEQ issues these permits or approves a Notice of Construction.