

Secretary of State  
Certificate and Order for Filing  
**TEMPORARY ADMINISTRATIVE RULES**  
A Statement of Need and Justification accompanies this form.

I certify that the attached copies are true, full and correct copies of the TEMPORARY Rule(s) adopted on 10/16/2013 by the  
Department of Environmental Quality 340

Agency and Division

Administrative Rules Chapter Number

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To become effective 10/24/2013 through 04/22/2014.

**RULE CAPTION**

Increase Air Contaminant Discharge Permit fees

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

**RULEMAKING ACTION**

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

**ADOPT:**

**AMEND:**

340-216-0020, 340-216-0062, 340-216-0064, 340-210-0100

**SUSPEND:**

**Statutory Authority:**

ORS 468.020, 468.065, 468A.025, 468A.040

**Other Authority:**

**Statutes Implemented:**

ORS 468A.050

**RULE SUMMARY**

The 2013 Oregon Legislature approved Policy Package 111 as part of DEQ's budget bill, Senate Bill 5520. The policy package restores staff positions to the air contaminant discharge permit program based on an approximate 20 percent fee increase. DEQ expects that the annual revenue from a 20 percent fee increase will fully fund the permit program through 2017. The fees were last increased in 2007, also by 20 percent. The fee for an air contaminant discharge permit is not indexed to the consumer price index to provide regular inflationary increases.

Without the fee increase, DEQ would have cut 6.67 full-time equivalent positions dedicated to the permit program. The legislatively adopted budget authorizes DEQ to restore 3.67 of the 6.67 positions identified to be cut. DEQ cannot maintain adequate service in the program without restoring the 3.67 positions funded by the fee increase. DEQ is able to operate the program without the other three positions permanently cut in the budget because of permitting process improvements.

DEQ proposes temporary rule amendments to increase air contaminant discharge permit fees by 20 percent. A temporary rule is needed to allow DEQ to issue permit invoices in October as scheduled and avoid a supplemental billing. DEQ will propose permanent rules for adoption in 2014.

The proposed rule amendments also revise the greenhouse gas reporting fees from 15 percent to 12.5 percent of the permit fee. DEQ considers this a technical correction to the greenhouse gas reporting fee. Greenhouse gas reporting is a separate program from air contaminant discharge permitting, but the greenhouse gas reporting fees are based on the permit fees. If the greenhouse gas reporting fees are not amended, facilities holding air contaminant discharge permits will inadvertently pay higher greenhouse gas reporting fees as a result of the proposed fee increase.

The proposed rule amendments also reduce an economic hardship that will result from correcting an invoicing error for facilities holding simple permits, which are a category of air contaminant discharge permits. DEQ recently became aware of the error through an audit of invoices going back nine years. DEQ determined that a large number of facilities holding simple permits were invoiced for a low annual fee, but do not meet the low fee criteria. The current rule requires facilities to pay all fees owed, including late fees; however, DEQ is proposing rules that will reduce the amount of fees owed for companies who are able to certify they were unaware they were underpaying the fees. Identifying which fee criteria a facility met was a complex process and DEQ is clarifying the process to prevent the invoice error from recurring. This is a one-time exemption and DEQ will not propose permanent rules for this exemption. The exemption would apply only to facilities that underpaid the simple permit annual fee for 2013 and earlier operating years.

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ARCHIVES DIVISION  
SECRETARY OF STATE

Secretary of State  
**STATEMENT OF NEED AND JUSTIFICATION**  
A Certificate and Order for Filing Temporary Administrative Rules accompanies this form

Department of Environmental Quality

340

Agency and Division

Administrative Rules Chapter Number

Increase Air Contaminant Discharge Permit fees

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Increase Air Contaminant Discharge Permit fees

**Statutory Authority:**

ORS 468.020, 468.065, 468A.025, 468A.040

**Other Authority:**

**Statutes Implemented:**

ORS 468A.050

**Need for the Temporary Rule(s):**

The 2013 Oregon Legislature approved Policy Package 111 as part of DEQ's budget bill, Senate Bill 5520. The policy package restores 3.67 full-time equivalent staff positions to the air contaminant discharge permit program based on an approximate 20 percent fee increase. The policy package was based on increasing the fees in both of the annual billing cycles in the 2013-2015 biennium. Fees are invoiced in October of each year to meet program funding needs.

In addition to increasing air contaminant discharge permit fees by 20 percent, the amendments decrease greenhouse gas reporting fees from 15 percent to 12.5 percent of the permit fee. Greenhouse gas reporting is a separate program from permitting, but the greenhouse gas reporting fees are based on the air contaminant discharge permit fees and are invoiced at the same time as the permit fees. Without this revision, facilities would have paid higher greenhouse gas reporting fees as a result of the permit fee increase.

The amendments also provide a one-time reduction in the cost of past fees and late fees for facilities holding simple permits that unintentionally underpaid annual fees. Without this revision, about 25 facilities would have paid up to \$16,320 each as a result of invoice errors discovered in a recent audit. The amendments are retroactive for previous years' fees and reduce the economic hardship for affected facilities by waiving the late fees and only requiring the past two years of underpayment to be collected. As a result of the rule amendments, facilities will pay no more than \$3,840 in underpaid fees and DEQ will allow facilities to establish a payment plan that can be spread out over three years.

Documents Relied Upon, and where they are available: Documents relied upon are available by contacting DEQ or online as follows:

Senate Bill 5520 (2013) <http://www.leg.state.or.us/13reg/measures/sb5500.dir/sb5520.en.html>

Senate Bill 5520 Budget Reports

ACDP revenue forecast for the 2013-2015 biennium

**Documents Relied Upon, and where they are available:**

Senate Bill 5520 (2013) <http://www.leg.state.or.us/13reg/measures/sb5500.dir/sb5520.en.html>

Senate Bill 5520 Budget Reports

ACDP revenue forecast for the 2013-2015 biennium

**Justification of Temporary Rule(s):**

The EQC finds that failure to adopt the temporary rules will result in serious prejudice to the public interest because it will have the following consequences:

DEQ must issue air contaminant discharge permit invoices as scheduled in October 2013. If DEQ proceeded with a regular rulemaking after the legislative session ended in July 2013, the rulemaking would not be complete before the October 2013 invoices were sent. In that case, DEQ would be required to invoice the 2013 permit fees twice - the typical invoice in October, and a supplemental invoice at the conclusion of permanent rulemaking. The supplemental invoice would cause additional costs for DEQ and permit holders. It would likely produce errors, confusion and additional non-productive work for DEQ and the regulated community. With or without temporary rules, facilities would owe the

same amount of fees because the program budget including the fee increase was adopted by the 2013 Oregon Legislature and state law authorizes EQC to set fees at levels to cover anticipated costs of the program.

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ARCHIVES DIVISION  
SECRETARY OF STATE

## DIVISION 216

### AIR CONTAMINANT DISCHARGE PERMITS

**340-216-0020**

#### Applicability

This division applies to all sources referred to in Table 1 of this rule. This division also applies to Oregon Title V Operating Permit program sources when an ACDP is required by OAR 340-218-0020 or 340-224-0010. Sources referred to in Table 1 are subject to fees as set forth in Table 2.

(1) No person may construct, install, establish, develop or operate any air contaminant source which is referred to in Table 1 of this rule without first obtaining an Air Contaminant Discharge Permit (ACDP) from DEQ or Regional Authority, unless otherwise deferred from the requirement to obtain an ACDP in subsection (1)(c) of this rule or DEQ has granted an exemption from the requirement to obtain an ACDP under subsection (1)(f) of this rule. No person may continue to operate an air contaminant source if the ACDP expires, or is terminated or revoked; except as provided in OAR 340-216-0082.

(a) For portable sources, a single permit may be issued for operating at any area of the state if the permit includes the requirements from both DEQ and Regional Authorities.

(b) DEQ or Regional Authority where the portable source's Corporate offices are located will be responsible for issuing the permit. If the corporate office of a portable source is located outside of the state, DEQ will be responsible for issuing the permit.

(c) An air contaminant source required to obtain an ACDP or ACDP Attachment pursuant to a NESHAP or NSPS adopted by the Commission by rule is not required to submit an application for an ACDP or ACDP Attachment until four months after the effective date of the Commission's adoption of the NESHAP or NSPS, and is not required to obtain an ACDP or ACDP Attachment until six months after the Commission's adoption of the NESHAP or NSPS. In addition, DEQ may defer the requirement to submit an application for, or to obtain an ACDP or ACDP Attachment, or both, for up to an additional twelve months.

(d) Deferrals of Oregon permitting requirements do not relieve an air contaminant source from the responsibility of complying with federal NESHAP or NSPS requirements.

(e) OAR 340-216-0060(1)(b)(A), 340-216-0062(2)(b)(A), 340-216-0064(4)(a), and 340-216-0066(3)(a), do not relieve a permittee from the responsibility of complying with federal NESHAP or NSPS requirements that apply to the source even if DEQ has not incorporated such requirements into the permit.

(f) DEQ may exempt a source from the requirement to obtain an ACDP if it determines that the source is subject to only procedural requirements, such as notification that the source is affected by an NSPS or NESHAP.

(2) No person may construct, install, establish, or develop any source that will be subject to the Oregon Title V Operating Permit program without first obtaining an ACDP from DEQ or Regional Authority.

(3) No person may modify any source that has been issued an ACDP without first complying with the requirements of OAR 340-210-0205 through 340-210-0250.

(4) No person may modify any source required to have an ACDP such that the source becomes subject to the Oregon Title V Operating Permit program without complying with the requirements of OAR 340-210-0205 through 340-210-0250.

(5) No person may increase emissions above the PSEL by more than the de minimis levels specified in OAR 340-200-0020 without first applying for and obtaining a modified ACDP.

(6) Subject to the requirements in this Division, the Lane Regional Air Protection Agency is designated by the Commission as the permitting agency to implement the Air Contaminant Discharge Permit program within its area of jurisdiction. The Regional Agency's program is subject to DEQ oversight. The requirements and procedures contained in this Division pertaining to the Air Contaminant Discharge Permit program shall be used by the Regional Agency to implement its permitting program until the Regional Agency adopts superseding rules which are at least as restrictive as state rules.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-211-0040.

[ED. NOTE: Tables referenced are not included in rule text. [Click here for PDF copy of tables.](#)]

Stat. Auth.: ORS 468.020  
Stats. Implemented: ORS 468A

### **340-216-0062**

#### **General ACDP Attachments**

(1) Purpose. This rule allows a source to be assigned to one General ACDP and one or more General ACDP Attachments, as long as the General ACDP and General ACDP Attachment(s) contain all requirements applicable to the source. This would allow a source to avoid having to obtain a more costly Simple or Standard ACDP if there are no General ACDPs that contain all requirements applicable to the source.

(2) Applicability.

(a) DEQ may issue a General ACDP Attachment under the following circumstances:

(A) There are several sources that involve the same or substantially similar types of operations;

(B) All requirements applicable to the covered operations can be contained in a General ACDP Attachment;

(C) The emission limitations, monitoring, recordkeeping, reporting and other enforceable conditions are the same for all operations covered by the General ACDP Attachment;

(D) The pollutants emitted are of the same type for all covered operations. If a General ACDP and a General ACDP Attachment(s) cannot address all activities at a source, the owner or operator of the source must apply for a Simple or Standard ACDP in accordance with this Division.

(b) Attachment content. Each General ACDP Attachment must include the following:

(A) All relevant requirements for the operations covered by the General ACDP Attachment, excluding any federal requirements not adopted by the EQC;

(B) Testing, monitoring, recordkeeping, and reporting requirements necessary to ensure compliance with the applicable emissions limits and standards; and

(C) An attachment expiration date not to exceed 10 years from the date of issuance.

(c) Attachment issuance procedures: A General ACDP Attachment requires public notice and opportunity for comment in accordance with OAR 340 division 209 for Category II permit actions. All General ACDP Attachments will be on file and available for review at DEQ's headquarters.

(3) Source assignment:

(a) Application requirements. Any person requesting to be assigned to a General ACDP Attachment must submit a written application for each requested General ACDP Attachment that specifies the requested General ACDP Attachment and shows that the source qualifies for the requested General ACDP Attachment.

(b) Fees. Permittees must pay an annual fee of \$144 for each assigned General ACDP Attachment.

(c) Assignment procedures:

(A) Assignment to a General ACDP Attachment is a Category I permit action and is subject to the Category I public notice requirements in accordance with OAR 340, division 209.

(B) A person is not a permittee under the General ACDP Attachment until DEQ assigns the General ACDP Attachment to the person.

(C) Assignments to a General ACDP Attachments terminate when the General ACDP Attachment expires or is modified, terminated or revoked.

(D) A source may not be assigned to a General ACDP Attachment for a source category in a higher annual fee class than the General ACDP the source is currently assigned to. Instead a source must be reassigned to the General ACDP for the source category in the higher annual fee class in accordance with OAR 340-216-0060(2)(c)(E) and may be assigned to one or more General ACDP Attachments associated with source categories in an equal or lower annual fee class.

(d) If all activities at a source cannot be addressed by a General ACDP and General ACDP Attachments, the owner or operator of the source must apply for a Simple or Standard ACDP in accordance with this Division.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468.020 & 468A.025

### **340-216-0064**

#### **Simple ACDP**

(1) Applicability.

(a) Sources and activities listed in Table 1, Part B of OAR 340-216-0020 that do not qualify for a General ACDP and are not required to obtain a Standard ACDP must, at a minimum, obtain a Simple ACDP.

(b) Any source required to obtain a Simple ACDP may obtain a Standard ACDP.

(c) DEQ may determine that a source is ineligible for a Simple ACDP and must obtain a Standard ACDP based upon, but not limited to, the following considerations:

(A) The nature, extent, and toxicity of the source's emissions;

(B) The complexity of the source and the rules applicable to that source;

(C) The complexity of the emission controls and potential threat to human health and the environment if the emission controls fail;

(D) The location of the source; and

(E) The compliance history of the source.

(2) Application Requirements. Any person requesting a new, modified, or renewed Simple ACDP must submit an application in accordance with OAR 340-216-0040.

(3) Fees. Applicants for a new or modified Simple ACDP must pay the fees set forth in Table 2 of 340-216-0020. Annual fees for Simple ACDPs will be assessed based on the following:

(a) Low Fee — A Source may qualify for the Low Fee if:

(A) the source is, or will be, permitted under only one of the following categories from Table 1, Part B (category 27. Electric Power Generation, may be included with any category listed below) of OAR 340-216-0020:

(i) Category 7. Asphalt felt and coatings;

(ii) Category 13. Boilers and other fuel burning equipment;

(iii) Category 33. Galvanizing & Pipe coating;

(iv) Category 39. Gray iron and steel foundries, malleable iron foundries, steel investment foundries, steel foundries 100 or more tons/yr. metal charged (not elsewhere identified);

(v) Category 40. Gypsum products;

(vi) Category 45. Liquid Storage Tanks subject to OAR division 232;

(vii) Category 56. Non-Ferrous Metal Foundries 100 or more tons/yr. of metal charged;

(viii) Category 57. Organic or Inorganic Industrial Chemical Manufacturing;

(ix) Category 62. Perchloroethylene Dry Cleaning;

(x) Category 73. Secondary Smelting and/or Refining of Ferrous and Non-Ferrous Metals; or

(xi) Category 85. All Other Sources not listed in Table 1 of OAR 340-216-0020 which would have actual emissions, if the source were to operate uncontrolled, of 5 or more tons a year of direct PM<sub>2.5</sub> or PM<sub>10</sub> if located in a PM<sub>2.5</sub> or PM<sub>10</sub> non-attainment or maintenance area, or 10 or more tons of any single criteria pollutant in any part of the state; and

(B) The actual emissions from the 12 months immediately preceding the invoice date, and future projected emissions are less than 5 tons/yr. PM<sub>10</sub> in a PM<sub>10</sub> nonattainment or maintenance area, and less than 10 tons/yr. for each criteria pollutant; and

(C) The source is not considered an air quality problem or nuisance source by DEQ.

(b) High Fee — Any source required to have a Simple ACDP (Table 1, Part B of OAR 340-216-0020) that does not qualify for the Low Fee will be assessed the High Fee.

(c) If DEQ determines that a source was invoiced for the Low Annual Fee but does not meet the Low Fee criteria outlined above, the source will be required to pay the difference between the Low and High Fees, plus applicable late fees in accordance with Table 2 of OAR 340-216-0020. Late fees start upon issuance of the initial invoice. In this case, DEQ will issue a new invoice specifying applicable fees.

(d) If a source must pay fees and late fees to DEQ under subsection (c) of this section and an authorized representative of the source with knowledge and responsibility for submitting permit fees to DEQ certifies under penalty of law that, to the best of the certifying individual's good faith knowledge and belief, the source met the Low Fee criteria outlined above during the period the source paid the Low Fee, then the source will be required to pay only the difference between the Low and High Fees under subsection (c) of this section for the past two years. A source that meets the requirements of this subsection will not be required to pay any late fees associated with the fee payments hereunder unless the source fails to make such payments on or before the deadline provided by DEQ for such payments, in which case the source will be required to pay the late fees described in Table 2 of OAR 340-216-0020. The provisions of this subsection shall apply to any fees due under subsection (c) of this section including fees for years that preceded the effective date of this subsection.

(4) Permit Content.

(a) All relevant applicable requirements for source operation, including general ACDP conditions for incorporating generally applicable requirements, but excluding any federal requirements not adopted by the EQC;

(b) Generic PSELs for all pollutants emitted at more than the de minimis level in accordance with OAR 340 division 222;

(c) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary; and

(d) A permit duration not to exceed 5 years.

(5) Permit issuance procedures:

(a) Issuance of a new or renewed Simple ACDP requires public notice in accordance with OAR 340 division 209 for Category II permit actions.

(b) Issuance of a modification to a Simple ACDP requires one of the following procedures, as applicable:



(A) Non-technical and non-NSR/PSD Basic and Simple technical modifications require public notice in accordance with OAR 340, division 209 for Category I permit actions; or

(B) Issuance of non-NSR/PSD Moderate and Complex technical modifications require public notice in accordance with OAR 340 division 209 for Category II permit actions.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 468.020  
Stats. Implemented: ORS 468A

## **DIVISION 210**

### **STATIONARY SOURCE NOTIFICATION REQUIREMENTS**

#### **Registration**

#### **340-210-0100**

##### **Registration in General**

(1) Any air contaminant source not subject to Air Contaminant Discharge Permits, OAR 340 division 216, or Oregon Title V Operating Permits, OAR 340 division 218, must register with DEQ upon request pursuant to OAR 340-210-0110 through 340-210-0120.

(2) The owner or operator of an air contaminant source listed in subsection (2)(a) of this rule that is certified through a Department approved environmental certification program and subject to an Area Source NESHAP may register the source with DEQ pursuant to OAR 340-210-0110 through 340-210-0120 in lieu of obtaining a permit in accordance with OAR 340-216-0020, unless DEQ determines that the source has not complied with the requirements of the environmental certification program.

(a) The following air contaminant sources may be registered under this section:

(A) Motor vehicle surface coating operations.

(B) Dry cleaners using perchloroethylene.

(b) Approved environmental certification program. To be approved, the environmental certification program must, at a minimum, require certified air contaminant sources to comply with all applicable state and federal rules and regulations and require additional measures to increase environmental protection.

(c) Fees. In order to obtain and maintain registration, owners and operators of air contaminant sources registered pursuant to this section must pay the following annual fees by March 1 of each year:

(A) Motor vehicle surface coating operations — \$288.00.

(B) Dry cleaners using perchloroethylene — \$216.00.

(C) Late fees.

(i) 8-30 days late: 5% of annual fee.

(ii) 31-60 days late: 10% of annual fee.

(iii) 61 or more days late: 20% of annual fee.

(D) Failure to pay fees. Registration is automatically terminated upon failure to pay annual fees within 90 days of invoice by DEQ, unless prior arrangements for payment have been approved in writing by DEQ.

(d) Recordkeeping. In order to maintain registration, owners and operators of air contaminant sources registered pursuant to this section must maintain records required by the approved environmental performance program under subsection (2)(b) of this rule. The records must be kept on site and in a form suitable and readily available for expeditious inspection and review.

(3) The owner or operator of an air contaminant source that is subject to a federal NSPS or NESHAP in 40 CFR Part 60 or 40 CFR Part 63 and that is not located at a source that is required to obtain a permit under OAR chapter 340, division 216 (Air Contaminant Discharge Permits) or OAR chapter 340, division 218 (Oregon Title V Operating Permits), must register and maintain registration with DEQ pursuant to OAR 340-210-0110 through 340-210-0120 if requested in writing by DEQ (or by EPA at DEQ's request).

(4) Revocation. DEQ may revoke a registration if a source fails to meet any requirement in OAR 340-210-0110.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

Stat. Auth.: ORS 468.020, 468A.025, 468A.035, 468A.050, 468A.070 & 468A.310

Stats. Implemented: ORS 468 & 468A

## **OAR 340-216-0020**

### **AIR CONTAMINANT DISCHARGE PERMITS**

**Table 1**

#### **Part A: Activities and Sources**

The following commercial and industrial sources must obtain a Basic ACDP under the procedures set forth in 340-216-0056 unless the source is required to obtain a different form of ACDP by Part B or C hereof: (Production and emission parameters are based on the latest consecutive 12 month period, or future projected operation, whichever is higher. Emission cutoffs are based on actual emissions.)

1. \*\* Autobody Repair or Painting Shops painting more than 25 automobiles in a year.
2. Concrete Manufacturing including Redimix and CTB more than 5,000 but less than 25,000 cubic yards per year output.
3. Crematory and Pathological Waste Incinerators with less than 20 tons/yr. material input.
4. Natural gas and propane fired boilers (with or without #2 diesel oil back-up\*\*\*\*) of 10 or more MMBTU but less than 30 MMBTU/hr heat input constructed after June 9, 1989.
5. Prepared feeds for animals and fowl and associated grain elevators more than 1,000 tons/yr. but less than 10,000 tons per year throughput.
6. Rock, Concrete or Asphalt Crushing both portable and stationary more than 5,000 tons/yr. but less than 25,000 tons/yr. crushed.
7. Surface coating operations whose actual or expected usage of coating materials is greater than 250 gallons per month, excluding sources that exclusively use non-VOC and non-HAP containing coatings (e.g. powder coating operations).

#### **Part B Activities and Sources**

The following commercial and industrial sources must obtain either:

- a General ACDP, if one is available for the source classification and the source qualifies for a General ACDP under the procedures set forth in 340-216-0060;
  - a Simple ACDP under the procedures set forth in 340-216-0064; or
  - a Standard ACDP under the procedures set forth in 340-216-0066 if the source fits one of the criteria of Part C hereof.
1. Aerospace or Aerospace Parts Manufacturing
  2. Aluminum, Copper, and Other Nonferrous Foundries subject to an Area Source NESHAP
  3. Aluminum Production - Primary
  4. Ammonia Manufacturing
  5. Animal Rendering and Animal Reduction Facilities
  6. Asphalt Blowing Plants
  7. Asphalt Felts or Coating
  8. Asphaltic Concrete Paving Plants both stationary and portable
  9. Bakeries, Commercial over 10 tons of VOC emissions per year
  10. Battery Separator Manufacturing
  11. Battery Manufacturing and Re-manufacturing
  12. Beet Sugar Manufacturing
  13. Boilers and other Fuel Burning Equipment over 10 MMBTU/hr. heat input, except exclusively Natural Gas and Propane fired units (with or without #2 diesel backup) under 30 MMBTU/hr. heat input
  14. Building paper and Buildingboard Mills
  15. Calcium Carbide Manufacturing
  16. \*\*\* Can or Drum Coating
  17. Cement Manufacturing

18. \* Cereal Preparations and Associated Grain Elevators 10,000 or more tons/yr. throughput
19. Charcoal Manufacturing
20. Chlorine and Alkalies Manufacturing
21. Chrome Plating
22. Clay Ceramics Manufacturing subject to an Area Source NESHAP
23. Coffee Roasting (roasting 30 or more tons per year)
24. Concrete Manufacturing including Redimix and CTB 25,000 or more cubic yards per year output
25. Crematory and Pathological Waste Incinerators 20 or more tons/yr. material input
26. Degreasers (halogenated solvents subject to a NESHAP)
27. Electrical Power Generation from combustion, excluding units used exclusively as emergency generators and units less than 500 kW
28. Commercial Ethylene Oxide Sterilization, excluding facilities using less than 1 ton of ethylene oxide within all consecutive 12-month periods after December 6, 1996
29. Ferroalloy Production Facilities subject to an Area Source NESHAP
30. \*\*\* Flatwood Coating regulated by Division 232
31. \*\*\* Flexographic or Rotogravure Printing subject to RACT
32. \* Flour, Blended and/or Prepared and Associated Grain Elevators 10,000 or more tons/yr. throughput
33. Galvanizing and Pipe Coating (except galvanizing operations that use less than 100 tons of zinc/yr.)
34. Gasoline Bulk Plants, Bulk Terminals, and Pipeline Facilities
35. Gasoline dispensing facilities, excluding gasoline dispensing facilities with monthly throughput of less than 10,000 gallons of gasoline per month\*\*\*\*\*
36. Glass and Glass Container Manufacturing
37. \* Grain Elevators used for intermediate storage 10,000 or more tons/yr. throughput
38. Grain terminal elevators
39. Gray iron and steel foundries, malleable iron foundries, steel investment foundries, steel foundries 100 or more tons/yr. metal charged (not elsewhere identified)
40. Gypsum Products Manufacturing
41. Hardboard Manufacturing (including fiberboard)
42. Hospital sterilization operations subject to an Area Source NESHAP
43. Incinerators with two or more ton per day capacity
44. Lime Manufacturing
45. \*\*\* Liquid Storage Tanks subject to OAR Division 232
46. Magnetic Tape Manufacturing
47. Manufactured and Mobile Home Manufacturing
48. Marine Vessel Petroleum Loading and Unloading
49. Metal Fabrication and Finishing Operations subject to an Area Source NESHAP, excluding facilities that meet all the following:
  - a. Do not perform any of the operations listed in OAR 340-216-0060(2)(b)(Y)(i) through (iii);
  - b. Do not perform shielded metal arc welding (SMAW) using metal fabrication and finishing hazardous air pollutant (MFHAP) containing wire or rod; and
  - c. Use less than 100 pounds of MFHAP containing welding wire and rod per year
50. Millwork (including kitchen cabinets and structural wood members) 25,000 or more bd. ft./maximum 8 hr. input
51. Molded Container
52. Motor Coach Manufacturing
53. Motor Vehicle and Mobile Equipment Surface Coating Operations subject to an Area Source NESHAP, excluding motor vehicle surface coating operations painting less than 10 vehicles per year or using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year, mobile equipment surface coating operations using less

than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year, and motor vehicle surface coating operations registered pursuant to OAR 340-210-0100(2)

54. Natural Gas and Oil Production and Processing and associated fuel burning equipment
55. Nitric Acid Manufacturing
56. Non-Ferrous Metal Foundries 100 or more tons/yr. of metal charged
57. Organic or Inorganic Chemical Manufacturing and Distribution with ½ or more tons per year emissions of any one criteria pollutant (sources in this category with less than ½ ton/yr. of each criteria pollutant are not required to have an ACDP)
58. Paint and Allied Products Manufacturing subject to an Area Source NESHAP
59. Paint Stripping and Miscellaneous Surface Coating Operations subject to an Area Source NESHAP, excluding paint stripping and miscellaneous surface coating operations using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year
60. \*\*\* Paper or other Substrate Coating
61. Particleboard Manufacturing (including strandboard, flakeboard, and waferboard)
62. Perchloroethylene Dry Cleaning Operations subject to an Area Source NESHAP, excluding perchloroethylene dry cleaning operations registered pursuant to OAR 340-210-0100(2)
63. Pesticide Manufacturing 5,000 or more tons/yr. annual production
64. Petroleum Refining and Re-refining of Lubricating Oils and Greases including Asphalt Production by Distillation and the reprocessing of oils and/or solvents for fuels
65. Plating and Polishing Operations subject to an Area Source NESHAP
66. Plywood Manufacturing and/or Veneer Drying
67. Prepared Feeds Manufacturing for animals and fowl and associated grain elevators 10,000 or more tons per year throughput
68. Primary Smelting and/or Refining of Ferrous and Non-Ferrous Metals
69. Pulp, Paper and Paperboard Mills
70. Rock, Concrete or Asphalt Crushing both portable and stationary 25,000 or more tons/yr. crushed
71. Sawmills and/or Planing Mills 25,000 or more bd. ft./maximum 8 hr. finished product
72. Secondary Nonferrous Metals Processing subject to an Area Source NESHAP
73. Secondary Smelting and/or Refining of Ferrous and Non-Ferrous Metals
74. \* Seed Cleaning and Associated Grain Elevators 5,000 or more tons/yr. throughput
75. Sewage Treatment Facilities employing internal combustion for digester gasses
76. Soil Remediation Facilities stationary or portable
77. Steel Works, Rolling and Finishing Mills
78. \*\*\* Surface Coating in Manufacturing subject to RACT
79. Surface Coating Operations with actual emissions of VOCs before add on controls of 10 or more tons/yr.
80. Synthetic Resin Manufacturing
81. Tire Manufacturing
82. Wood Furniture and Fixtures 25,000 or more bd. ft./maximum 8 hr. input
83. Wood Preserving (excluding waterborne)
84. All Other Sources not listed herein that DEQ determines an air quality concern exists or one which would emit significant malodorous emissions
85. All Other Sources not listed herein which would have actual emissions, if the source were to operate uncontrolled, of 5 or more tons a year of PM10 if located in a PM10 non-attainment or maintenance area, or 10 or more tons of any single criteria pollutant in any part of the state

### **Part C: Activities and Sources**

The following sources must obtain a Standard ACDP under the procedures set forth in 340-216-0066:

1. Incinerators for PCBs and / or other hazardous wastes
2. All Sources that DEQ determines have emissions that constitute a nuisance
3. All Sources electing to maintain the source's baseline emission rate, or netting basis
4. All Sources subject to a RACT, BACT, LAER, NESHAP adopted in OAR 340-244-0220, NSPS adopted in OAR 340-238-0060, State MACT, or other significant Air Quality regulation(s), except:
  - a. Source categories for which a General ACDP has been issued.
  - b. Sources with less than 10 tons/yr. actual emissions that are subject to RACT, NSPS adopted in OAR 340-238-0060 or a NESHAP adopted in OAR 340-244-0220 which qualify for a Simple ACDP.
  - c. Sources registered pursuant to OAR 340-210-0100(2).
  - d. Electrical power generation units used exclusively as emergency generators and units less than 500 kW.
  - e. Gasoline dispensing facilities, provided the gasoline dispensing facility has monthly throughput of less than 10,000 gallons of gasoline per month
  - f. Motor vehicle surface coating operations painting less than 10 vehicles per year or using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year, mobile equipment surface coating operations using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year, and motor vehicle surface coating operations registered pursuant to OAR 340-210-0100(2).
  - g. Paint stripping and miscellaneous surface coating operations using less than 20 gallons of coating and 20 gallons of methylene chloride containing paint stripper per year
  - h. Commercial ethylene oxide sterilization operations using less than 1 ton of ethylene oxide within all consecutive 12-month periods after December 6, 1996.
  - i. Metal fabrication and finishing operations that meet all the following:
    - A. Do not perform any of the operations listed in OAR 340-216-0060(2)(b)(Y)(i) through (iii);
    - B. Do not perform shielded metal arc welding (SMAW) using metal fabrication and finishing hazardous air pollutant (MFHAP) containing wire or rod; and
    - C. Use less than 100 pounds of MFHAP containing welding wire and rod per year.
  - j. Chemical manufacturing facilities that do not transfer liquids containing organic HAP listed in Table 1 of 40 CFR part 63 subpart VVVVVV to tank trucks or railcars and are not subject to emission limits in Table 2, 3, 4, 5, 6, or 8 of 40 CFR part 63 subpart VVVVVV.
  - k. Prepared feeds manufacturing facilities with less than 10,000 tons per year throughput.
5. All sources having the Potential to Emit more than 100,000 tons CO<sub>2</sub>e of GHG emissions in a year.
6. All Sources having the Potential to Emit more than 100 tons of any regulated air contaminant in a year
7. All Sources having the Potential to Emit more than 10 tons of a single hazardous air pollutant in a year
8. All Sources having the Potential to Emit more than 25 tons of all hazardous air pollutants combined in a year

**Notes:**

\* Applies only to Special Control Areas

\*\* Portland AQMA only

\*\*\* Portland AQMA, Medford-Ashland AQMA or Salem SKATS only

\*\*\*\* "back-up" means less than 10,000 gallons of fuel per year

\*\*\*\*\* "monthly throughput" means the total volume of gasoline that is loaded into, or dispensed from, all gasoline storage tanks at the gasoline dispensing facility during a month. Monthly

throughput is calculated by summing the volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at the gasoline dispensing facility during the month, plus the total volume of gasoline loaded into, or dispensed from, all gasoline storage tanks at the gasoline dispensing facility during the previous 11 months, and then dividing that sum by 12



State of Oregon Department of Environmental Quality  
**Air Contaminant Discharge Permits**  
 Table 2 – 340-216-0020

State of Oregon  
 Department of  
 Environmental  
 Quality

**Part 1. Initial Permitting Application Fees: (in addition to first annual fee)**

a. Short Term Activity ACDP	\$3,600.00
b. Basic ACDP	\$144.00
c. Assignment to General ACDP	\$1,440.00*
d. Simple ACDP	\$7,200.00
e. Construction ACDP	\$11,520.00
f. Standard ACDP	\$14,400.00
g. Standard ACDP (PSD/NSR)	\$50,400.00

\*DEQ may waive the assignment fee for an existing source requesting to be assigned to a General ACDP because the source is subject to a newly adopted area source NESHAP as long as the existing source requests assignment within 90 days of notification by DEQ.

**Part 2. Annual Fees: (Due date 12/1\* for 1/1 to 12/31 of the following year)**

a. Short Term Activity ACDP		\$NA
b. Basic ACDP		\$432.00
c. General ACDP	(A) Fee Class One	\$864.00
	(B) Fee Class Two	\$1,555.00
	(C) Fee Class Three	\$2,246.00
	(D) Fee Class Four	\$432.00
	(E) Fee Class Five	\$144.00
	(F) Fee Class Six	\$288.00
d. Simple ACDP	(A) Low Fee	\$2,304.00
	(B) High Fee	\$4,608.00
e. Standard ACDP		\$9,216.00

\*The payment due date for dry cleaners or gasoline dispensing facilities may be extended by the Department until March 1<sup>st</sup>.

**Part 3. Specific Activity Fees:**

a. Non-Technical Permit Modification (1)	\$432.00
b. Non-PSD/NSR Basic Technical Permit Modification (2)	\$432.00
c. Non-PSD/NSR Simple Technical Permit Modification(3)	\$1,440.00
d. Non-PSD/NSR Moderate Technical Permit Modification (4)	\$7,200.00
e. Non-PSD/NSR Complex Technical Permit Modification (5)	\$14,400.00
f. PSD/NSR Modification	\$50,400.00



g. Modeling Review (outside PSD/NSR)	\$7,200.00
h. Public Hearing at Source's Request	\$2,880.00
i. State MACT Determination	\$7,200.00
j. Compliance Order Monitoring (6)	\$144.00/month
k. Greenhouse Gas Reporting, as required by OAR 340-215-	12.5% of the applicable annual fee in Part 2

#### Part 4. Late Fees:

- a. 8-30 days late 5%
  - b. 31-60 days late 10%
  - c. 61 or more days late 20%
1. Non-Technical modifications include, but are not limited to name changes, change of ownership and similar administrative changes. For gasoline dispensing facilities, a portion of these fees will be used to cover the fees required for changes of ownership in OAR 340-150-0052(4).
  2. Basic Technical Modifications include, but are not limited to corrections of emission factors in compliance methods, changing source test dates for extenuating circumstances, and similar changes.
  3. Simple Technical Modifications include, but are not limited to, incorporating a PSEL compliance method from a review report into an ACDP, modifying a compliance method to use different emission factors or process parameter, changing source test dates for extenuating circumstances, changing reporting frequency, incorporating NSPS and NESHAP requirements that do not require judgment, and similar changes.
  4. Moderate Technical Modifications include, but are not limited to incorporating a relatively simple new compliance method into a permit, adding a relatively simple compliance method or monitoring for an emission point or control device not previously addressed in a permit, revising monitoring and reporting requirements other than dates and frequency, adding a new applicable requirement into a permit due to a change in process or change in rules and that does not require judgment by the Department, incorporating NSPS and NESHAP requirements that do not require judgment, and similar changes.
  5. Complex Technical Modifications include, but are not limited to incorporating a relatively complex new compliance method into a permit, adding a relatively complex compliance method or monitoring for an emission point or control device not previously addressed in a permit, adding a relatively complex new applicable requirement into a permit due to a change in process or change in rules and that requires judgment by the Department, and similar changes.
  6. This is a one time fee payable when a Compliance Order is established in a Permit or a Department Order containing a compliance schedule becomes a Final Order of the Department and is based on the number of months the Department will have to oversee the Order.

## **Oregon Department of Environmental Quality**

### **Housing Costs**

#### **Increase Air Contaminant Discharge Permit fees**

DEQ determined the proposed rules may have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel. It is possible the fee increase would be passed on to consumers; however, the possible impact appears to be minimal. DEQ cannot quantify this impact at this time because the information available to it does not indicate whether the 20 percent fee increase would be passed on to consumers and any such estimate would be speculative.

**Authorization Page**  
Generated on October 23, 2013 3:39PM  
**TEMPORARY ADMINISTRATIVE RULES**

Department of Environmental Quality	340
Agency and Division	Administrative Rules Chapter Number
Maggie Vandehey	maggie.vandehey@state.or.us
Rules Coordinator	Email Address
811 SW Sixth Ave., Portland, OR 97204-1390	503-229-6878
Address	Telephone
10/16/2013	
Adopted on	
10/23/2013 thru 04/21/2014	
Effective dates	

**RULE CAPTION**

Increase Air Contaminant Discharge Permit fees

Not more than 15 words

**RULEMAKING ACTION**

**ADOPT:**

AMEND: 340-216-0020, 340-216-0062, 340-216-0064, 340-216-0100

**SUSPEND:**

Stat. Auth.: ORS 468.020, 468.065, 468A.025, 468A.040

**Other Auth.:**

Stats. Implemented: ORS 468A.050

**RULE SUMMARY**

The 2013 Oregon Legislature approved Policy Package 111 as part of DEQ's budget bill, Senate Bill 5520. The policy package restores staff positions to the air contaminant discharge permit program based on an approximate 20 percent fee increase. DEQ expects that the annual revenue from a 20 percent fee increase will fully fund the permit program through 2017. The fees were last increased in 2007, also by 20 percent. The fee for an air contaminant discharge permit is not indexed to the consumer price index to provide regular inflationary increases.

Without the fee increase, DEQ would have cut 6.67 full-time equivalent positions dedicated to the permit program. The legislatively adopted budget authorizes DEQ

to restore 3.67 of the 6.67 positions identified to be cut. DEQ cannot maintain adequate service in the program without restoring the 3.67 positions funded by the fee increase. DEQ is able to operate the program without the other three positions permanently cut in the budget because of permitting process improvements.

DEQ proposes temporary rule amendments to increase air contaminant discharge permit fees by 20 percent. A temporary rule is needed to allow DEQ to issue permit invoices in October as scheduled and avoid a supplemental billing. DEQ will propose permanent rules for adoption in 2014.

The proposed rule amendments also revise the greenhouse gas reporting fees from 15 percent to 12.5 percent of the permit fee. DEQ considers this a technical correction to the greenhouse gas reporting fee. Greenhouse gas reporting is a separate program from air contaminant discharge permitting, but the greenhouse gas reporting fees are based on the permit fees. If the greenhouse gas reporting fees are not amended, facilities holding air contaminant discharge permits will inadvertently pay higher greenhouse gas reporting fees as a result of the proposed fee increase.

The proposed rule amendments also reduce an economic hardship that will result from correcting an invoicing error for facilities holding simple permits, which are a category of air contaminant discharge permits. DEQ recently became aware of the error through an audit of invoices going back nine years. DEQ determined that a large number of facilities holding simple permits were invoiced for a low annual fee, but do not meet the low fee criteria. The current rule requires facilities to pay all fees owed, including late fees; however, DEQ is proposing rules that will reduce the amount of fees owed for companies who are able to certify they were unaware they were underpaying the fees. Identifying which fee criteria a facility met was a complex process and DEQ is clarifying the process to prevent the invoice error from recurring. This is a one-time exemption and DEQ will not propose permanent rules for this exemption. The exemption would apply only to facilities that underpaid the simple permit annual fee for 2013 and earlier operating years.

## STATEMENT OF NEED AND JUSTIFICATION

### Increase Air Contaminant Discharge Permit fees

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In the Matter of

Senate Bill 5520 (2013)  
<http://www.leg.state.or.us/13reg/measures/sb5500.dir/sb5520.en.html>

Senate Bill 5520 Budget Reports  
ACDP revenue forecast for the 2013-2015 biennium

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Documents Relied Upon, and where they are available

The 2013 Oregon Legislature approved Policy Package 111 as part of DEQ's budget bill, Senate Bill 5520. The policy package restores 3.67 full-time equivalent

staff positions to the air contaminant discharge permit program based on an approximate 20 percent fee increase. The policy package was based on increasing the fees in both of the annual billing cycles in the 2013-2015 biennium. Fees are invoiced in October of each year to meet program funding needs.

In addition to increasing air contaminant discharge permit fees by 20 percent, the amendments decrease greenhouse gas reporting fees from 15 percent to 12.5 percent of the permit fee. Greenhouse gas reporting is a separate program from permitting, but the greenhouse gas reporting fees are based on the air contaminant discharge permit fees and are invoiced at the same time as the permit fees. Without this revision, facilities would have paid higher greenhouse gas reporting fees as a result of the permit fee increase.

The amendments also provide a one-time reduction in the cost of past fees and late fees for facilities holding simple permits that unintentionally underpaid annual fees. Without this revision, about 25 facilities would have paid up to \$16,320 each as a result of invoice errors discovered in a recent audit. The amendments are retroactive for previous years' fees and reduce the economic hardship for affected facilities by waiving the late fees and only requiring the past two years of underpayment to be collected. As a result of the rule amendments, facilities will pay no more than \$3,840 in underpaid fees and DEQ will allow facilities to establish a payment plan that can be spread out over three years.

Documents Relied Upon, and where they are available: Documents relied upon are available by contacting DEQ or online as follows:

Senate Bill 5520 (2013)  
<http://www.leg.state.or.us/13reg/measures/sb5500.dir/sb5520.en.html>

Senate Bill 5520 Budget Reports  
ACDP revenue forecast for the 2013-2015 biennium  

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Need for the Temporary Rule(s)

The EQC finds that failure to adopt the temporary rules will result in serious prejudice to the public interest because it will have the following consequences:

DEQ must issue air contaminant discharge permit invoices as scheduled in October 2013. If DEQ proceeded with a regular rulemaking after the legislative session ended in July 2013, the rulemaking would not be complete before the October 2013 invoices were sent. In that case, DEQ would be required to invoice the 2013 permit fees twice - the typical invoice in October, and a supplemental invoice at the conclusion of permanent rulemaking. The supplemental invoice would cause additional costs for DEQ and permit holders. It would likely produce errors, confusion and additional non-productive work for DEQ and the regulated community. With or without temporary rules, facilities would owe the same amount of fees because the program budget including the fee increase was adopted by the 2013 Oregon Legislature and state law authorizes EQC to set fees at levels to cover anticipated costs of the program.

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Justification of Temporary Rules

Maggie Vandekney  
Authorized Signer

Maggie Vandekney  
Printed Name

10/23/2013  
Date

Authorization Page replaces the ink signature on paper filings. Have your authorized signer sign and date, then scan and attach it to your filing. You must complete this step before submitting your Permanent and Temporary filings.

# DEPARTMENT OF ENVIRONMENTAL QUALITY

## DIVISION 216

### AIR CONTAMINANT DISCHARGE PERMITS

#### 340-216-0020

##### Applicability

This division applies to all sources referred to in Table 1 of this rule. This division also applies to Oregon Title V Operating Permit program sources when an ACDP is required by OAR 340-218-0020 or 340-224-0010. Sources referred to in Table 1 are subject to fees as set forth in Table 2.

(1) No person may construct, install, establish, develop or operate any air contaminant source which is referred to in Table 1 of this rule without first obtaining an Air Contaminant Discharge Permit (ACDP) from DEQ or Regional Authority, unless otherwise deferred from the requirement to obtain an ACDP in subsection (1)(c) of this rule or DEQ has granted an exemption from the requirement to obtain an ACDP under subsection (1)(f) of this rule. No person may continue to operate an air contaminant source if the ACDP expires, or is terminated or revoked; except as provided in OAR 340-216-0082.

(a) For portable sources, a single permit may be issued for operating at any area of the state if the permit includes the requirements from both DEQ and Regional Authorities.

(b) DEQ or Regional Authority where the portable source's Corporate offices are located will be responsible for issuing the permit. If the corporate office of a portable source is located outside of the state, DEQ will be responsible for issuing the permit.

(c) An air contaminant source required to obtain an ACDP or ACDP Attachment pursuant to a NESHAP or NSPS adopted by the Commission by rule is not required to submit an application for an ACDP or ACDP Attachment until four months after the effective date of the Commission's adoption of the NESHAP or NSPS, and is not required to obtain an ACDP or ACDP Attachment until six months after the Commission's adoption of the NESHAP or NSPS. In addition, DEQ may defer the requirement to submit an application for, or to obtain an ACDP or ACDP Attachment, or both, for up to an additional twelve months.

(d) Deferrals of Oregon permitting requirements do not relieve an air contaminant source from the responsibility of complying with federal NESHAP or NSPS requirements.

(e) OAR 340-216-0060(1)(b)(A), 340-216-0062(2)(b)(A), 340-216-0064(4)(a), and 340-216-0066(3)(a), do not relieve a permittee from the responsibility of complying with federal NESHAP or NSPS requirements that apply to the source even if DEQ has not incorporated such requirements into the permit.

(f) DEQ may exempt a source from the requirement to obtain an ACDP if it determines that the source is subject to only procedural requirements, such as notification that the source is affected by an NSPS or NESHAP.

(2) No person may construct, install, establish, or develop any source that will be subject to the Oregon Title V Operating Permit program without first obtaining an ACDP from DEQ or Regional Authority.

(3) No person may modify any source that has been issued an ACDP without first complying with the requirements of OAR 340-210-0205 through 340-210-0250.

(4) No person may modify any source required to have an ACDP such that the source becomes subject to the Oregon Title V Operating Permit program without complying with the requirements of OAR 340-210-0205 through 340-210-0250.

(5) No person may increase emissions above the PSEL by more than the de minimis levels specified in OAR 340-200-0020 without first applying for and obtaining a modified ACDP.

(6) Subject to the requirements in this Division, the Lane Regional Air Protection Agency is designated by the Commission as the permitting agency to implement the Air Contaminant Discharge Permit program within its area of jurisdiction. The Regional Agency's program is subject to DEQ oversight. The requirements and procedures contained in this Division pertaining to the Air

Contaminant Discharge Permit program shall be used by the Regional Agency to implement its permitting program until the Regional Agency adopts superseding rules which are at least as restrictive as state rules.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-211-0040.

[ED. NOTE: Tables referenced are not included in rule text. [Click here for PDF copy of tables.](#)]

Stat. Auth.: ORS 468.020  
Stats. Implemented: ORS 468A

## OAR 340-216-0020

### AIR CONTAMINANT DISCHARGE PERMITS

**Table 2**

**Part 1. Initial Permitting Application Fees: (in addition to first annual fee)**

a. Short Term Activity ACDP	<del>\$3,000.00</del> 3,600.00
b. Basic ACDP	<del>\$120.00</del> 144.00
c. Assignment to General ACDP	<del>\$1,200.00</del> 1,440.00*
d. Simple ACDP	<del>\$6,000.00</del> 7,200.00
e. Construction ACDP	<del>\$9,600.00</del> 11,520.00
f. Standard ACDP	<del>\$12,000.00</del> 14,400.00
g. Standard ACDP (PSD/NSR)	<del>\$42,000.00</del> 50,400.00

\*DEQ may waive the assignment fee for an existing source requesting to be assigned to a General ACDP because the source is subject to a newly adopted area source NESHAP as long as the existing source requests assignment within 90 days of notification by DEQ.

**Part 2. Annual Fees: (Due date 12/1\* for 1/1 to 12/31 of the following year)**

a. Short Term Activity ACDP	\$NA
b. Basic ACDP	<del>\$360.00</del> 432.00
c. General ACDP	
(A) Fee Class One	<del>\$720.00</del> 864.00
(B) Fee Class Two	<del>\$1,296.00</del> 1,555.00
(C) Fee Class Three	<del>\$1,872.00</del> 2,246.00
(D) Fee Class Four	<del>\$360.00</del> 432.00
(E) Fee Class Five	<del>\$120.00</del> 144.00
(F) Fee Class Six	<del>\$240.00</del> 288.00
d. Simple ACDP	
(A) Low Fee	<del>\$1,920.00</del> 2,304.00
(B) High Fee	<del>\$3,840.00</del> 4,608.00
e. Standard ACDP	<del>\$7,680.00</del> 9,216.00

\*The payment due date for dry cleaners or gasoline dispensing facilities may be extended by the Department until March 1st.

**Part 3. Specific Activity Fees:**

a. Non-Technical Permit Modification (1)	<del>\$360.00</del> 432.00
b. Non-PSD/NSR Basic Technical Permit Modification (2)	<del>\$360.00</del> 432.00



c. Non-PSD/NSR Simple Technical Permit Modification(3)	\$ <del>1,200.00</del> <u>1,440.00</u>
d. Non-PSD/NSR Moderate Technical Permit Modification (4)	\$ <del>6,000.00</del> <u>7,200.00</u>
e. Non-PSD/NSR Complex Technical Permit Modification (5)	\$ <del>12,000.00</del> <u>14,400.00</u>
f. PSD/NSR Modification	\$ <del>42,000.00</del> <u>50,400.00</u>
g. Modeling Review (outside PSD/NSR)	\$ <del>6,000.00</del> <u>7,200.00</u>
h. Public Hearing at Source's Request	\$ <del>2,400.00</del> <u>2,880.00</u>
i. State MACT Determination	\$ <del>6,000.00</del> <u>7,200.00</u>
j. Compliance Order Monitoring (6)	\$ <del>120.00</del> <u>144.00</u> /month
k. Greenhouse Gas Reporting, as required by OAR 340-215-	<del>15</del> <u>12.5</u> % of the applicable annual fee in Part 2

#### Part 4. Late Fees:

- a. 8-30 days late 5%
  - b. 31-60 days late 10%
  - c. 61 or more days late 20%
1. Non-Technical modifications include, but are not limited to name changes, change of ownership and similar administrative changes. For gasoline dispensing facilities, a portion of these fees will be used to cover the fees required for changes of ownership in OAR 340-150-0052(4).
  2. Basic Technical Modifications include, but are not limited to corrections of emission factors in compliance methods, changing source test dates for extenuating circumstances, and similar changes.
  3. Simple Technical Modifications include, but are not limited to, incorporating a PSEL compliance method from a review report into an ACDP, modifying a compliance method to use different emission factors or process parameter, changing source test dates for extenuating circumstances, changing reporting frequency, incorporating NSPS and NESHAP requirements that do not require judgment, and similar changes.
  4. Moderate Technical Modifications include, but are not limited to incorporating a relatively simple new compliance method into a permit, adding a relatively simple compliance method or monitoring for an emission point or control device not previously addressed in a permit, revising monitoring and reporting requirements other than dates and frequency, adding a new applicable requirement into a permit due to a change in process or change in rules and that does not require judgment by the Department, incorporating NSPS and NESHAP requirements that do not require judgment, and similar changes.
  5. Complex Technical Modifications include, but are not limited to incorporating a relatively complex new compliance method into a permit, adding a relatively complex compliance method or monitoring for an emission point or control device not previously addressed in a permit, adding a relatively complex new applicable requirement into a permit due to a change in process or change in rules and that requires judgment by the Department, and similar changes.
  6. This is a one time fee payable when a Compliance Order is established in a Permit or a Department Order containing a compliance schedule becomes a Final Order of the Department and is based on the number of months the Department will have to oversee the Order.

(1) Purpose. This rule allows a source to be assigned to one General ACDP and one or more General ACDP Attachments, as long as the General ACDP and General ACDP Attachment(s) contain all requirements applicable to the source. This would allow a source to avoid having to obtain a more costly Simple or Standard ACDP if there are no General ACDPs that contain all requirements applicable to the source.

(2) Applicability.

(a) DEQ may issue a General ACDP Attachment under the following circumstances:

(A) There are several sources that involve the same or substantially similar types of operations;

(B) All requirements applicable to the covered operations can be contained in a General ACDP Attachment;

(C) The emission limitations, monitoring, recordkeeping, reporting and other enforceable conditions are the same for all operations covered by the General ACDP Attachment;

(D) The pollutants emitted are of the same type for all covered operations. If a General ACDP and a General ACDP Attachment(s) cannot address all activities at a source, the owner or operator of the source must apply for a Simple or Standard ACDP in accordance with this Division.

(b) Attachment content. Each General ACDP Attachment must include the following:

(A) All relevant requirements for the operations covered by the General ACDP Attachment, excluding any federal requirements not adopted by the EQC;

(B) Testing, monitoring, recordkeeping, and reporting requirements necessary to ensure compliance with the applicable emissions limits and standards; and

(C) An attachment expiration date not to exceed 10 years from the date of issuance.

(c) Attachment issuance procedures: A General ACDP Attachment requires public notice and opportunity for comment in accordance with OAR 340 division 209 for Category II permit actions. All General ACDP Attachments will be on file and available for review at DEQ's headquarters.

(3) Source assignment:

(a) Application requirements. Any person requesting to be assigned to a General ACDP Attachment must submit a written application for each requested General ACDP Attachment that specifies the requested General ACDP Attachment and shows that the source qualifies for the requested General ACDP Attachment.

(b) Fees. Permittees must pay an annual fee of ~~\$420~~\$144 for each assigned General ACDP Attachment.

(c) Assignment procedures:

(A) Assignment to a General ACDP Attachment is a Category I permit action and is subject to the Category I public notice requirements in accordance with OAR 340, division 209.

(B) A person is not a permittee under the General ACDP Attachment until DEQ assigns the General ACDP Attachment to the person.

(C) Assignments to a General ACDP Attachments terminate when the General ACDP Attachment expires or is modified, terminated or revoked.

(D) A source may not be assigned to a General ACDP Attachment for a source category in a higher annual fee class than the General ACDP the source is currently assigned to. Instead a source must be reassigned to the General ACDP for the source category in the higher annual fee class in accordance with OAR 340-216-0060(2)(c)(E) and may be assigned to one or more General ACDP Attachments associated with source categories in an equal or lower annual fee class.

(d) If all activities at a source cannot be addressed by a General ACDP and General ACDP Attachments, the owner or operator of the source must apply for a Simple or Standard ACDP in accordance with this Division.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468.020 & 468A.025

Hist.: DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 4-2013, f. & cert. ef. 3-27-13

### **340-216-0064**

#### **Simple ACDP**

##### **(1) Applicability.**

(a) Sources and activities listed in Table 1, Part B of OAR 340-216-0020 that do not qualify for a General ACDP and are not required to obtain a Standard ACDP must, at a minimum, obtain a Simple ACDP.

(b) Any source required to obtain a Simple ACDP may obtain a Standard ACDP.

(c) DEQ may determine that a source is ineligible for a Simple ACDP and must obtain a Standard ACDP based upon, but not limited to, the following considerations:

(A) The nature, extent, and toxicity of the source's emissions;

(B) The complexity of the source and the rules applicable to that source;

(C) The complexity of the emission controls and potential threat to human health and the environment if the emission controls fail;

(D) The location of the source; and

(E) The compliance history of the source.

(2) Application Requirements. Any person requesting a new, modified, or renewed Simple ACDP must submit an application in accordance with OAR 340-216-0040.

(3) Fees. Applicants for a new or modified Simple ACDP must pay the fees set forth in Table 2 of 340-216-0020. Annual fees for Simple ACDPs will be assessed based on the following:

(a) Low Fee — A Source may qualify for the Low Fee if:

(A) the source is, or will be, permitted under only one of the following categories from Table 1, Part B (category 27. Electric Power Generation, may be included with any category listed below) of OAR 340-216-0020:

(i) Category 7. Asphalt felt and coatings;

(ii) Category 13. Boilers and other fuel burning equipment;

(iii) Category 33. Galvanizing & Pipe coating;

(iv) Category 39. Gray iron and steel foundries, malleable iron foundries, steel investment foundries, steel foundries 100 or more tons/yr. metal charged (not elsewhere identified);

(v) Category 40. Gypsum products;

(vi) Category 45. Liquid Storage Tanks subject to OAR division 232;

(vii) Category 56. Non-Ferrous Metal Foundries 100 or more tons/yr. of metal charged;

(viii) Category 57. Organic or Inorganic Industrial Chemical Manufacturing;

(ix) Category 62. Perchloroethylene Dry Cleaning;

(x) Category 73. Secondary Smelting and/or Refining of Ferrous and Non-Ferrous Metals; or

(xi) Category 85. All Other Sources not listed in Table 1 of OAR 340-216-0020 which would have actual emissions, if the source were to operate uncontrolled, of 5 or more tons a year of direct PM<sub>2.5</sub> or PM<sub>10</sub> if located in a PM<sub>2.5</sub> or PM<sub>10</sub> non-attainment or maintenance area, or 10 or more tons of any single criteria pollutant in any part of the state; and

(B) The actual emissions from the 12 months immediately preceding the invoice date, and future projected emissions are less than 5 tons/yr. PM<sub>10</sub> in a PM<sub>10</sub> nonattainment or maintenance area, and less than 10 tons/yr. for each criteria pollutant; and

(C) The source is not considered an air quality problem or nuisance source by DEQ.

(b) High Fee — Any source required to have a Simple ACDP (Table 1, Part B of OAR 340-216-0020) that does not qualify for the Low Fee will be assessed the High Fee.

(c) If DEQ determines that a source was invoiced for the Low Annual Fee but does not meet the Low Fee criteria outlined above, the source will be required to pay the difference between the Low and High Fees, plus applicable late fees in accordance with Table 2 of OAR 340-216-0020. Late fees start upon issuance of the initial invoice. In this case, DEQ will issue a new invoice specifying applicable fees.

(d) If a source must pay fees and late fees to DEQ under subsection (c) of this section and an authorized representative of the source with knowledge and responsibility for submitting permit fees to DEQ certifies under penalty of law that, to the best of the certifying individual's good faith knowledge and belief, the source met the Low Fee criteria outlined above during the period the source paid the Low Fee, then the source will be required to pay only the difference between the Low and High Fees under subsection (c) of this section for the past two years. A source that meets the requirements of this subsection will not be required to pay any late fees associated with the fee payments hereunder unless the source fails to make such payments on or before the deadline provided by DEQ for such payments, in which case the source will be required to pay the late fees described in Table 2 of OAR 340-216-0020. The provisions of this subsection shall apply to any fees due under subsection (c) of this section including fees for years that preceded the effective date of this subsection.

(4) Permit Content.

(a) All relevant applicable requirements for source operation, including general ACDP conditions for incorporating generally applicable requirements, but excluding any federal requirements not adopted by the EQC;

(b) Generic PSELs for all pollutants emitted at more than the de minimis level in accordance with OAR 340 division 222;

(c) Testing, monitoring, recordkeeping, and reporting requirements sufficient to determine compliance with the PSEL and other emission limits and standards, as necessary; and

(d) A permit duration not to exceed 5 years.

(5) Permit issuance procedures:

(a) Issuance of a new or renewed Simple ACDP requires public notice in accordance with OAR 340 division 209 for Category II permit actions.

(b) Issuance of a modification to a Simple ACDP requires one of the following procedures, as applicable:

(A) Non-technical and non-NSR/PSD Basic and Simple technical modifications require public notice in accordance with OAR 340, division 209 for Category I permit actions; or

(B) Issuance of non-NSR/PSD Moderate and Complex technical modifications require public notice in accordance with OAR 340 division 209 for Category II permit actions.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11; DEQ 4-2013, f. & cert. ef. 3-27-13

## **DIVISION 210**

### **STATIONARY SOURCE NOTIFICATION REQUIREMENTS**

#### **Registration**

#### **340-210-0100**

##### **Registration in General**

(1) Any air contaminant source not subject to Air Contaminant Discharge Permits, OAR 340 division 216, or Oregon Title V Operating Permits, OAR 340 division 218, must register with DEQ upon request pursuant to OAR 340-210-0110 through 340-210-0120.

(2) The owner or operator of an air contaminant source listed in subsection (2)(a) of this rule that is certified through a Department approved environmental certification program and subject to an Area Source NESHAP may register the source with DEQ pursuant to OAR 340-210-0110 through 340-210-0120 in lieu of obtaining a permit in accordance with OAR 340-216-0020, unless DEQ determines that the source has not complied with the requirements of the environmental certification program.

(a) The following air contaminant sources may be registered under this section:

(A) Motor vehicle surface coating operations.

(B) Dry cleaners using perchloroethylene.

(b) Approved environmental certification program. To be approved, the environmental certification program must, at a minimum, require certified air contaminant sources to comply with all applicable state and federal rules and regulations and require additional measures to increase environmental protection.

(c) Fees. In order to obtain and maintain registration, owners and operators of air contaminant sources registered pursuant to this section must pay the following annual fees by March 1 of each year:

(A) Motor vehicle surface coating operations — ~~\$240.00~~288.00.

(B) Dry cleaners using perchloroethylene — ~~\$180.00~~216.00.

(C) Late fees.

(i) 8-30 days late: 5% of annual fee.

(ii) 31-60 days late: 10% of annual fee.

(iii) 61 or more days late: 20% of annual fee.

(D) Failure to pay fees. Registration is automatically terminated upon failure to pay annual fees within 90 days of invoice by DEQ, unless prior arrangements for payment have been approved in writing by DEQ.

(d) Recordkeeping. In order to maintain registration, owners and operators of air contaminant sources registered pursuant to this section must maintain records required by the approved environmental performance program under subsection (2)(b) of this rule. The records must be kept on site and in a form suitable and readily available for expeditious inspection and review.

(3) The owner or operator of an air contaminant source that is subject to a federal NSPS or NESHAP in 40 CFR Part 60 or 40 CFR Part 63 and that is not located at a source that is required to obtain a permit under OAR chapter 340, division 216 (Air

Contaminant Discharge Permits) or OAR chapter 340, division 218 (Oregon Title V Operating Permits), must register and maintain registration with DEQ pursuant to OAR 340-210-0110 through 340-210-0120 if requested in writing by DEQ (or by EPA at DEQ's request).

(4) Revocation. DEQ may revoke a registration if a source fails to meet any requirement in OAR 340-210-0110.

**NOTE:** This rule is included in the State of Oregon Clean Air Act Implementation Plan as adopted by the EQC under OAR 340-200-0040.

Stat. Auth.: ORS 468.020, 468A.025, 468A.035, 468A.050, 468A.070 & 468A.310

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 15, f. 6-12-70, ef. 9-1-70; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0005; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-0500; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 7-2011(Temp), f. & cert. ef. 6-24-11 thru 12-19-11; Administrative correction, 2-6-12; DEQ 1-2012, f. & cert. ef. 5-17-12; DEQ 4-2013, f. & cert. ef. 3-27-13

**From:** 1 of 1

Department of Environmental Quality Portland  
811 SW 6th Ave  
Portland, OR 97204  
340000

**To:**

Legislative Counsel  
900 Court St NE S 101  
Salem, OR 97301  
142000

Security Level:	4
Misc.:	
# of Pkgs:	1
Delivery Time:	8:25 AM

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**Special Instructions:**

*AA - AEDP Fee Rulemaking  
Sent in Shuttle 10/25/13*

**From:** [CURTIS Andrea](#)  
**To:** [VANDEHEY Maggie](#)  
**Subject:** RM-ACDPfee File rules with SOS  
**Date:** Monday, October 21, 2013 3:49:01 PM

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Maggie,

The ACDP fee rules are ready for filing with SOS. The proposed temporary rules were adopted by EQC on Oct. 16, 2013.

I saved documents to 7-PostEQC folder [here](#)

**Addendums:** You asked us to save addendums to the folder. Does what we did for this rulemaking count as an addendum? We prepared an addendum to our staff report before the EQC meeting, and proposed the addendum at the meeting. I think we would still call this rulemaking "ADOPTED" instead of "ADOPTED WITH ADDENDUMS" because our addendum was part of DEQ's proposal. This is not a case where EQC adopted something different from DEQ's proposal.

Thanks,

**Andrea Curtis**

Oregon Department of Environmental Quality

Air Quality Division

503-229-5946

[curtis.andrea@deq.state.or.us](mailto:curtis.andrea@deq.state.or.us)



Secretary of State  
Certificate and Order for Filing

**TEMPORARY ADMINISTRATIVE RULES**  
A Statement of Need and Justification accompanies this form.

I certify that the attached copies are true, full and correct copies of the TEMPORARY Rule(s) adopted on 10/16/2013 by the  
Department of Environmental Quality 340

Agency and Division

Administrative Rules Chapter Number

Maggie Vandehey

(503) 229-6878

Rules Coordinator

Telephone

811 SW Sixth Ave., Portland, OR 97204-1390

Address

To become effective 10/24/2013 through 04/22/2014.

**RULE CAPTION**

Increase Air Contaminant Discharge Permit fees

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

**RULEMAKING ACTION**

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

**ADOPT:**

**AMEND:**

340-216-0020, 340-216-0062, 340-216-0064, 340-210-0100

**SUSPEND:**

**Statutory Authority:**

ORS 468.020, 468.065, 468A.025, 468A.040

**Other Authority:**

**Statutes Implemented:**

ORS 468A.050



**RULE SUMMARY**

The 2013 Oregon Legislature approved Policy Package 111 as part of DEQ's budget bill, Senate Bill 5520. The policy package restores staff positions to the air contaminant discharge permit program based on an approximate 20 percent fee increase. DEQ expects that the annual revenue from a 20 percent fee increase will fully fund the permit program through 2017. The fees were last increased in 2007, also by 20 percent. The fee for an air contaminant discharge permit is not indexed to the consumer price index to provide regular inflationary increases.

Without the fee increase, DEQ would have cut 6.67 full-time equivalent positions dedicated to the permit program. The legislatively adopted budget authorizes DEQ to restore 3.67 of the 6.67 positions identified to be cut. DEQ cannot maintain adequate service in the program without restoring the 3.67 positions funded by the fee increase. DEQ is able to operate the program without the other three positions permanently cut in the budget because of permitting process improvements.

DEQ proposes temporary rule amendments to increase air contaminant discharge permit fees by 20 percent. A temporary rule is needed to allow DEQ to issue permit invoices in October as scheduled and avoid a supplemental billing. DEQ will propose permanent rules for adoption in 2014.

The proposed rule amendments also revise the greenhouse gas reporting fees from 15 percent to 12.5 percent of the permit fee. DEQ considers this a technical correction to the greenhouse gas reporting fee. Greenhouse gas reporting is a separate program from air contaminant discharge permitting, but the greenhouse gas reporting fees are based on the permit fees. If the greenhouse gas reporting fees are not amended, facilities holding air contaminant discharge permits will inadvertently pay higher greenhouse gas reporting fees as a result of the proposed fee increase.

The proposed rule amendments also reduce an economic hardship that will result from correcting an invoicing error for facilities holding simple permits, which are a category of air contaminant discharge permits. DEQ recently became aware of the error through an audit of invoices going back nine years. DEQ determined that a large number of facilities holding simple permits were invoiced for a low annual fee, but do not meet the low fee criteria. The current rule requires facilities to pay all fees owed, including late fees; however, DEQ is proposing rules that will reduce the amount of fees owed for companies who are able to certify they were unaware they were underpaying the fees. Identifying which fee criteria a facility met was a complex process and DEQ is clarifying the process to prevent the invoice error from recurring. This is a one-time exemption and DEQ will not propose permanent rules for this exemption. The exemption would apply only to facilities that underpaid the simple permit annual fee for 2013 and earlier operating years.

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Maggie Vandehey  
Rules Coordinator Name

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maggie.vandehey@state.or.us  
Email Address

**FILED**

10-24-13 11:45 AM

ARCHIVES DIVISION  
SECRETARY OF STATE

Secretary of State  
**STATEMENT OF NEED AND JUSTIFICATION**

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form

Department of Environmental Quality

340

Agency and Division

Administrative Rules Chapter Number

Increase Air Contaminant Discharge Permit fees

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Increase Air Contaminant Discharge Permit fees

**Statutory Authority:**

ORS 468.020, 468.065, 468A.025, 468A.040

**Other Authority:**

**Statutes Implemented:**

ORS 468A.050

**Need for the Temporary Rule(s):**

The 2013 Oregon Legislature approved Policy Package 111 as part of DEQ's budget bill, Senate Bill 5520. The policy package restores 3.67 full-time equivalent staff positions to the air contaminant discharge permit program based on an approximate 20 percent fee increase. The policy package was based on increasing the fees in both of the annual billing cycles in the 2013-2015 biennium. Fees are invoiced in October of each year to meet program funding needs.

In addition to increasing air contaminant discharge permit fees by 20 percent, the amendments decrease greenhouse gas reporting fees from 15 percent to 12.5 percent of the permit fee. Greenhouse gas reporting is a separate program from permitting, but the greenhouse gas reporting fees are based on the air contaminant discharge permit fees and are invoiced at the same time as the permit fees. Without this revision, facilities would have paid higher greenhouse gas reporting fees as a result of the permit fee increase.

The amendments also provide a one-time reduction in the cost of past fees and late fees for facilities holding simple permits that unintentionally underpaid annual fees. Without this revision, about 25 facilities would have paid up to \$16,320 each as a result of invoice errors discovered in a recent audit. The amendments are retroactive for previous years' fees and reduce the economic hardship for affected facilities by waiving the late fees and only requiring the past two years of underpayment to be collected. As a result of the rule amendments, facilities will pay no more than \$3,840 in underpaid fees and DEQ will allow facilities to establish a payment plan that can be spread out over three years.

Documents Relied Upon, and where they are available: Documents relied upon are available by contacting DEQ or online as follows:

Senate Bill 5520 (2013) <http://www.leg.state.or.us/13reg/measures/sb5500.dir/sb5520.en.html>

Senate Bill 5520 Budget Reports

ACDP revenue forecast for the 2013-2015 biennium

**Documents Relied Upon, and where they are available:**

Senate Bill 5520 (2013) <http://www.leg.state.or.us/13reg/measures/sb5500.dir/sb5520.en.html>

Senate Bill 5520 Budget Reports

ACDP revenue forecast for the 2013-2015 biennium

**Justification of Temporary Rule(s):**

The EQC finds that failure to adopt the temporary rules will result in serious prejudice to the public interest because it will have the following consequences:

DEQ must issue air contaminant discharge permit invoices as scheduled in October 2013. If DEQ proceeded with a regular rulemaking after the legislative session ended in July 2013, the rulemaking would not be complete before the October 2013 invoices were sent. In that case, DEQ would be required to invoice the 2013 permit fees twice - the typical invoice in October, and a supplemental invoice at the conclusion of permanent rulemaking. The supplemental invoice would cause additional costs for DEQ and permit holders. It would likely produce errors, confusion and additional non-productive work for DEQ and the regulated community. With or without temporary rules, facilities would owe the

same amount of fees because the program budget including the fee increase was adopted by the 2013 Oregon Legislature and state law authorizes EQC to set fees at levels to cover anticipated costs of the program.

Maggie Vandehey

maggie.vandehey@state.or.us

Printed Name

Email Address

**FILED**

10-24-13 11:45 AM

ARCHIVES DIVISION  
SECRETARY OF STATE

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

ARC 925-2007