



State of Oregon Department of Environmental Quality

# Oregon Environmental Quality Commission special meeting

April 24, 2020

## Rulemaking, Action Item B Air Quality Title V General Permits

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# DEQ Recommendation to EQC

DEQ recommends that the Environmental Quality Commission adopt the proposed rules in Attachment A as part of Chapter 340 of the Oregon Administrative Rules.

**Proposed EQC motion:**

*“I move that the commission adopt the proposed rule amendments seen in Attachment A of this staff report as part of Chapter 340 of the Oregon Administrative Rules.”*

# Overview

## Short summary of proposed rule changes

DEQ is proposing rules that would allow issuance of general permits for similar Title V sources. General permits allow DEQ to streamline the permitting process by issuing one permit that covers multiple similar businesses rather than requiring individual Title V permits. This proposed rulemaking would remove existing administrative restrictions and allow DEQ to issue Title V general permits to a broader category of businesses, considerably shortening the permitting timeline for businesses.

The current Title V rules in division 218 only provide general permits for the following:

- Numerous similar sources;
- Major sources of hazardous air pollutants (HAPs) that are not subject to National Emission Standards for Hazardous Air Pollutants (NESHAP); and
- Sources DEQ does not consider to be a problem sources based on its complaint record and compliance history.

A major source of HAPs is one that emits over 10 tons per year of an individual HAP or 25 tons per year of combined HAPs. An area source of HAPs is one that emits under these same thresholds.

To date, DEQ has not issued any Title V general permits for major HAP sources because no sources have met these criteria. DEQ does issue general Air Contaminant Discharge Permits (ACDPs) for similar non-Title V sources such as dry cleaners, coffee roasters, and gas stations. Once the general ACDP is placed on public notice and DEQ receives comments, DEQ then issues the general ACDP. Any source that qualifies for that general ACDP can be assigned to the general ACDP without additional public notice. DEQ maintains a list of all businesses that are assigned to general ACDPs. The same process would be used for Title V general permits.

At this time, the only source category for which DEQ plans to issue Title V general permits is air curtain incinerators (ACIs), used for woody debris disposal. Federal rules applicable to ACIs require owners or operators of these units to obtain Title V permits. There may be additional federal rules that require other source categories to have Title V permits in the future, for which a Title V general permit can be issued.

## Background of reasons for doing this rulemaking

In 1994 when the Title V Operating Permits rules were adopted by the Environmental Quality Commission, NESHAPs were promulgated by EPA for only a handful of hazardous air pollutants and industry types. Currently, there are 140 NESHAPs adopted for major sources and 44 NESHAPs adopted for area sources. DEQ did not anticipate the need to issue Title V general permits for area sources or other similar sources at that time. DEQ is now considering Title V general permit rules for area sources because a number of ACI owners have expressed desire to use the devices for the removal of woody debris. There may be other area source categories besides ACIs that would qualify for Title V general permits in the future. In addition, there may

be similar sources that are neither major nor area sources of HAPs that DEQ may want to permit on TV general permits.

General permits take significantly less time to issue and would allow new businesses in the covered category to operate sooner. General permits allow DEQ to streamline the permitting process by issuing one permit that covers multiple similar operations rather than individual permits for each operation. Without the ability to issue Title V general permits, applicable businesses would still be subject to permitting, but would receive a regular Title V permit, which can take longer than a year to issue. This proposed rulemaking does not expand DEQ's authority to regulate different businesses, it would expand our ability to issue a more streamlined type of permit to businesses meeting the criteria.

## **How this rulemaking addresses the reasons for doing the rulemaking**

The proposed rules will allow for issuance of Title V general permits for multiple, similar sources rather than requiring individual Title V permits.

## **Key policy and technical issues**

The key policy issue for this proposed rulemaking is a resource issue for DEQ. By allowing for issuance of Title V general permits for multiple, similar sources rather than requiring individual Title V permits, DEQ can save resources. Issuing individual Title V permits for individual area sources is time consuming.

There are no technical issues for this proposed rulemaking because all the applicable requirements for all sources that qualify for a Title V general permit would be included in that general permit.

## **Affected parties**

Affected parties include owners and operators of sources that may qualify for a Title V general permit and people that live nearby these sources.

## **Effects of this rulemaking on any fees**

### **Brief summary of fiscal impact**

The following table is a summary of existing permitting fees that may pertain to Title V general permittees. Businesses that qualify for proposed Title V general permits may be required to pay the following permit fees, depending on the process DEQ uses to permit these businesses.

<b>Fee Type</b>	<b>Amount</b>
Assignment to General ACDP Initial Permitting Application Fee	\$1,440
General ACDP Annual Fee	\$864
Simple ACDP Initial Permitting Application Fee	\$7,200
Simple ACDP Annual Fee	\$4,608
TV Annual Base Fee	\$8,367
Cleaner Air Oregon Annual Base Fee	\$2,859
Emission Fee	\$63.26 per ton of each regulated pollutant
Cleaner Air Oregon Emission Fee	\$21.61 per ton of each regulated pollutant
Specific Activity Fees (if applicable)	ranging from \$510 to \$30,612
Greenhouse Gas Reporting Fee (if applicable)	12 percent of the Annual Base Fee and Emission Fee

Owners or operators of sources that qualify for proposed Title V general permits may also incur expenses by hiring consultants to help with the application process. DEQ anticipates that this work can be done by the owner or operator and would not require the services of consultants. DEQ cannot quantify the impact at this time because the available information does not indicate whether the owners or operators would hire consultants or not and any such estimate would be speculative.

# Statement of need

## **What need would the proposed rule address?**

Some sources that are not major sources of hazardous air pollutants, otherwise known as area sources, are required by federal regulation to obtain Title V permits. In addition, DEQ wants the ability to issue general permits to similar sources, not just area sources that qualify for a Title V general permit.

## **How would the proposed rule address the need?**

The proposed rules would allow DEQ to issue general permits for similar sources (both area HAP sources and other sources that qualify for a general permit) that are required to obtain Title V permits. This is currently not allowed under existing rules.

## **How will DEQ know the rule addressed the need?**

DEQ will know the rule addressed the need by being able to issue general permits, rather than issuing individual Title V permits, to similar sources that are required to obtain Title V permits.

# Rules Affected, Authorities and Supporting Documents

## Lead division

Operations/Air Quality, Headquarters

## Program or activity

Oregon Title V Operating Permits

## Chapter 340 action

Amend – OAR 340-218-0090

Statutory Authority - ORS				
468.020	468.065	468A.025	468A.040	468A.310

Statutes Implemented - ORS				
468A				

## Documents relied on for rulemaking

Document title	Document location
40 CFR Part 70	<a href="https://www.govinfo.gov/content/pkg/CFR-2019-title40-vol17/xml/CFR-2019-title40-vol17-part70.xml">https://www.govinfo.gov/content/pkg/CFR-2019-title40-vol17/xml/CFR-2019-title40-vol17-part70.xml</a>

## **Fee Analysis**

This rulemaking does not involve any fees aside from those already required under the Air Contaminant Discharge Permit Program and Title V Operating Permit Program. DEQ recognizes the need to evaluate Title V general permit fees after experience is gained in permitting businesses that qualify for general permits.

# Statement of Fiscal and Economic Impact

## Fiscal and economic impact

Adoption of the proposed Title V general permit rules is not expected to generate significant fiscal impacts. Fiscal impacts considered can be negative because it could increase costs of regulatory compliance for businesses. DEQ is unable to quantify the impact at this time because DEQ does not have information on the potential number of businesses that may be affected by this proposed rulemaking.

## Statement of Cost of Compliance

### State agencies

There may be direct impacts to DEQ due to assistance and review of deliverables that would be submitted by affected businesses. Impacts would be less than those if DEQ issued individual Title V permits for each affected business rather than a general permit for all businesses in the source category.

### Local governments

DEQ does not anticipate any impact on local governments.

### Public

DEQ does not anticipate any impact on the public. At this time, the only source category for which DEQ plans to issue Title V general permits is air curtain incinerators. Across the country, forest management agencies are increasingly considering ACIs as an alternative to prescribed burning or pile burning. The United States Forest Service has funded research on ACIs and claims the devices promote forest health, decrease outbreaks of unwanted insects and support wildfire prevention efforts along the wildland-urban interface [https://www.fs.fed.us/t-d/pubs/pdf/hi\\_res/05511303hi.pdf](https://www.fs.fed.us/t-d/pubs/pdf/hi_res/05511303hi.pdf).

### Large businesses - businesses with more than 50 employees

For large businesses, the cost to comply with the proposed rules is identical to costs described under Fiscal and Economic Impact.

### Small businesses – businesses with 50 or fewer employees

For small businesses, the cost to comply with the proposed rules is identical to costs described under Fiscal and Economic Impact.

### Cost of Compliance for Small Businesses

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

Since there are currently no TV general permits, DEQ does not have information on the number of small businesses that may be affected by the proposed rules, and therefore, cannot accurately estimate an incremental increase in costs. The owners of operators of

ACIs and other businesses in industry categories that would qualify for a Title V general permit would be required to pay the following fees:

- Annual fees of \$11,226 for the period of Nov. 15, 2019 to November 14, 2020, and for each annual period thereafter;
- Emission fees of \$84.87 per ton of each regulated pollutant emitted during calendar year 2018 and for each calendar year thereafter; and
- Specific activity fees and greenhouse gas reporting fees, if applicable.

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

The proposed rules would require businesses that qualify for Title V general permits to comply with all requirements, including monitoring, recordkeeping and reporting. DEQ anticipates that this work can be done by the owner or operator and would not require the services of consultants.

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

The proposed rules would not require any additional resources.

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

DEQ did not involve small businesses in developing this proposed rule because the proposed rulemaking will make it easier for small businesses to obtain Title V general permits.

**Mitigation measures for small businesses**

These proposed rules do not establish any new mitigation measures for small businesses because all small businesses currently holding Title V permits are required to pay permitting fees and emission fees. The Clean Air Act requires 100% the costs of the Title V Operating Permit Program to be paid affected businesses.

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

Document title	Document location
OAR 340 division 220 Oregon Title V Operating Permit Fees	<a href="https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=1541">https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=1541</a>

**Advisory committee fiscal review**

DEQ did not convene an advisory committee because DEQ already issues general Air Contaminant Discharge Permits to less complex sources. If the EPA rules did not require Title V permits for some area sources, DEQ would issue these area sources a general Air Contaminant Discharge Permit rather than a general Title V permit. Therefore, DEQ did not

see the need to establish an advisory committee for this rulemaking and therefore, did not appoint an advisory committee to review the fiscal impact statement.

## **Housing cost**

To comply with ORS 183.534, 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. The costs of additional permits, pollution control or process equipment, and compliance could be passed through by businesses providing products and services for such development and construction. The possible impact of these proposed changes appears to be minimal. DEQ cannot quantify the impact at this time because the available information does not indicate whether the costs would be passed on to consumers and any such estimate would be speculative.

# Federal Relationship

ORS 183.332, 468A.327 and OAR 340-011-0029 require DEQ to attempt to adopt rules that correspond with existing equivalent federal laws and rules unless there are reasons not to do so.

The proposed rules are not different from or in addition to federal requirements. 40 C.F.R. Part 70, EPA's rules that regulate Title V programs across the country, allows permitting authorities, after notice and opportunity for public participation, to issue a general permit covering numerous similar sources. Any general permit shall comply with all requirements applicable to other part 70 permits and shall identify criteria by which sources may qualify for the general permit. To sources that qualify, the permitting authority shall grant the conditions and terms of the general permit.

The restrictions on the types of sources that can obtain Title V general permits were not included in the Part 70 rules but were proposed by DEQ. As stated above, DEQ did not anticipate the need to issue Title V general permits for area sources or other similar sources.

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

DEQ considered not proposing the Title V general permit rules for area sources and other similar sources but decided against that alternative. Rather than issue individual Title V permits, which can be time consuming, Title V general permits provide time savings and expedited permitting.

# Land Use

## Considerations

In adopting new or amended rules, ORS 197.180 and OAR 340-018-0070 require DEQ to determine whether the proposed rules significantly affect land use. If so, DEQ must explain how the proposed rules comply with state wide land-use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR 340 Division 18, DEQ considers that rules affect land use if:

- The statewide land use planning goals specifically refer to the rule or program, or
- The rule or program is reasonably expected to have significant effects on:
- Resources, objects, or areas identified in the statewide planning goals, or
- Present or future land uses identified in acknowledge comprehensive plans.

DEQ determined whether the proposed rules involve programs or actions that affect land use by reviewing its Statewide Agency Coordination plan. The plan describes the programs that DEQ determined significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

<b>Goal</b>	<b>Title</b>
5	Natural Resources, Scenic and Historic Areas, and Open Spaces
6	Air, Water and Land Resources Quality
11	Public Facilities and Services
16	Estuarine Resources
19	Ocean Resources

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

## Determination

DEQ determined that the following proposed rules, listed under the Rules affected, authorities, supporting documents section above, are existing rules that affect programs or activities that the DEQ State Agency Coordination Program considers a land use program:

- OAR 340-218 – Oregon Title V Operating Permits

This rule proposal does not include any changes to land use procedures in the air quality permitting program. The proposed regulations would be consistent with state land use law because any facility that has received a Title V general permit will already have demonstrated land use compliance when they obtained or will obtain their underlying Air Quality permit. The air quality permit programs require that a new business provide a Land

Use Compatibility Statement from local government when applying for a permit. This assures that the business has an approved use for the property where it is located. Existing permittees have provided Land Use Compatibility Statements, which are on file with DEQ.

DEQ's statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules.

- OAR 340-018-0040(1) - compliance with statewide planning goals achieved by ensuring compatibility with acknowledged comprehensive plans
- OAR 340-018-0050(2)(a) - ensuring compatibility with acknowledged comprehensive plans may be accomplished through a Land Use Compatibility Statement.

# **EQC Prior Involvement**

DEQ did not present additional information specific to this proposed rule revision.

# Advisory Committee

## Background

DEQ did not convene an advisory committee because DEQ already issues general Air Contaminant Discharge Permits to less complex sources. If the EPA rules did not require Title V permits for some area sources, DEQ would issue these area sources a general Air Contaminant Discharge Permit rather than a general Title V permit. Therefore, DEQ did not see the need to establish an advisory committee for this rulemaking.

# Public Engagement

## Public notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing by:

- On Dec. 23, 2019, Filing notice with the Oregon Secretary of State for publication in the January 2020 Oregon Bulletin;
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at: [Title V General Permit 2020 Rulemaking web page](#);
- Emailing approximately 12,147 interested parties on the following DEQ lists through GovDelivery:
  - Rulemaking
  - DEQ Public Notices
  - Title V Permit Program
  - Air Quality Permits
- Emailing the following key legislators required under [ORS 183.335](#):
  - Senate President Courtney
  - Senator Dembrow
  - Speaker Kotek
  - Representative Power
- Posting on the DEQ event calendar: [DEQ Calendar](#)

## How to comment on this rulemaking proposal

DEQ asked for public comment on the proposed rules. Anyone could submit comments and questions about this rulemaking. A person could submit comments via email, by regular mail or at the public hearing. DEQ only considered comments on the proposed rules that DEQ received by 4 p.m., on Jan. 21, 2020.

## Public Hearing

DEQ held one public hearing. DEQ received not comments at the hearing.

## Presiding Officers' Record

### Hearing 1

Date	Jan. 17, 2020
Place	DEQ Headquarters, Conference Room 610, 700 NE Multnomah St., Portland, OR 97232
Start Time	5 p.m.
End Time	5:30 p.m.
Presiding Officer	Dan Defehr

### Presiding Officer

The presiding officer convened the hearing, summarized procedures for the hearing, and explained that DEQ was recording the hearing. No one attended the public hearing in person or by phone.

No person presented any oral testimony or written comments.

# Summary of Public Comments and DEQ Responses

## Public comment period

DEQ accepted public comment on the proposed rulemaking from Dec. 23, 2019, until 4 p.m. on Jan. 21, 2020.

DEQ did not receive any public comments for this rulemaking.

# Implementation

## Notification

The proposed rules would become effective upon filing on approximately March 19, 2020. DEQ would notify affected parties by:

- Emailing approximately interested parties on the following DEQ lists through GovDelivery:
  - Title V Permit Program
  - Air Quality Permits

## Compliance and enforcement

### Affected parties

No parties are automatically or immediately affected. Once DEQ develops a general permit for a sector, DEQ will notify affected parties that they must apply for a Title V General Permit one year after beginning operation permitted under an Air Contaminant Discharge Permit.

### DEQ staff

DEQ will email all air quality staff about the adopted Title V General Permit rules if adopted by the EQC. DEQ staff will inspect businesses that obtain a Title V General Permit and take any necessary enforcement action.

## Measuring, sampling, monitoring and reporting

### Affected parties

Monitoring and reporting requirements will be included in the Title V General Permit.

### DEQ staff

DEQ staff will ensure that businesses that obtain a Title V General Permit comply with the monitoring and reporting requirements.

## Systems

### Database

DEQ staff will enter businesses that obtain Title V General Permits into DEQ's permit tracking database.

### Invoicing

DEQ staff will invoice businesses that obtain Title V General Permits.

## Training

**Affected parties**

DEQ staff will work with businesses that obtain Title V General Permits.

**DEQ staff**

DEQ air quality headquarters staff will provide any necessary training to regional staff.

# Five-Year Review

## Requirement

Oregon law requires DEQ to review new rules within five years after EQC adopts them. The law also exempts some rules from review. DEQ determined whether the rules described in this report are subject to the five-year review. DEQ based its analysis on the law in effect when EQC adopted these rules.

## Exemption from five-year rule review

The Administrative Procedures Act exempts all of the proposed rules from the five-year review because the proposed rules would:

- Amend or repeal an existing rule. ORS 183.405(4).

# Accessibility Information

You may review copies of all documents referenced in this announcement at:  
Oregon Department of Environmental Quality  
700 NE Multnomah St., Ste. 600  
Portland, OR, 97232

To schedule a review of all websites and documents referenced in this announcement, call Jill Inahara, DEQ Headquarters, Portland OR, 503-229-5001 (800-452-4011, ext. 5622 toll-free in Oregon).

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us).

Key to Identifying Changed Text:

~~Strikethrough: Deleted Text~~

Underline: New/inserted text

**Division 218**

**OREGON TITLE V OPERATING PERMITS**

**340-218-0090**

**General Permits**

(1) DEQ may, at its own discretion, after notice and opportunity for public participation provided under OAR 340-218-0210, issue general permits for covering numerous similar sources in specific source categories as defined that meet the criteria in section (32). General permits must comply with all requirements applicable to other Oregon Title V Operating Permits, including but not limited to emission limitations and standards, monitoring and related recordkeeping and reporting requirements, fees, and criteria by which sources may qualify for general permits.

(2) Any source may petition DEQ to establish a general permit and must do so within 60 days of becoming subject to the rule requiring a Title V permit. If DEQ determines that a general permit is not appropriate, the source shall file a complete application for a Title V permit within 90 days of the DEQ determination.

(23) The owner or operator of an existing major HAP source which meets all of the following criteria may apply to be covered under the terms and conditions of a general permit:

(a) The source is a major source under section 112 of the FCAA only;

(b) No emissions standard for existing sources, promulgated pursuant to section 112(d) of the FCAA or adopted under OAR 340-244-0200 through 340-244-0220, applies to the source; and

(a) There are several permittees, permit applicants or potential permit applicants who have the same or substantially similar operations, emissions, activities or facilities;

(b) The permittees, permit applicants or potential permit applicants emit the same types of regulated air pollutants;

(c) The operations, emissions, activities or facilities are subject to the same or similar standards, limitations and operating requirements;

(d) The operations, emissions, activities or facilities are subject to the same or similar monitoring requirements;

(e) The permittees, permit applicants or potential permit applicants have the ability to comply with the general permit;

(f) The burden for DEQ to develop the general permit is not arduous; and

(ge) DEQ does not consider the existing source to be a problem source based on its complaint record and compliance history or does not anticipate the new source will be a problem source based on the source category and the emissions.

(4) General permits may be issued for the following purposes:

(a) To establish terms and conditions to implement applicable requirements;

(b) To establish terms and conditions to implement applicable requirements for specified categories of changes to permitted sources; and

(c) To establish Plant Site Emission Limits under OAR 340 division 222 from sources in the specified category.

(53) Notwithstanding the shield provisions of OAR 340-218-0110, the source will be subject to enforcement action for operation without an Oregon Title V Operating Permit if the source is later determined not to qualify for the conditions and terms of the general permit.

(6) General permits will not be authorized for affected sources under the national acid rain program unless provided in regulations promulgated under Title IV of the FCAA.

(74)(a) Oregon Title V Operating Permit program sources that would qualify for a general permit must apply to DEQ for coverage under the terms of the general permit or must apply for an Oregon Title V Operating Permit consistent with OAR 340-218-0040.

(b) If some but not all of a source's operations, activities and emissions are eligible for coverage under a general permit, the source must apply for and receive coverage under an Oregon Title V Operating permit under OAR 340-218-0040.

(cb) DEQ may, in the general permit, provide for applications which deviate from the requirements of OAR 340-218-0040, provided that such applications meet the requirements of Title V of the FCAA and include all information necessary to determine qualification for, and compliance with, the general permit.

(de) Without repeating the public participation procedures required under OAR 340-218-0210, DEQ may grant an owner's or operator's request for authorization to operate under a general permit if the source meets the applicability criteria for the general permit, but such a grant will not be a final permit action for purposes of judicial review.

(85) When an emissions limitation applicable to a general permit source is promulgated by the EPA pursuant to 112(d), or adopted by the state pursuant to OAR 340-244-0200 through 340-244-0220, the source must:

(a) Immediately comply with the provisions of the applicable emissions standard; and

(b)(A) Within 12 months of standard promulgation, apply for an operating permit, pursuant to OAR 340-218-0040, if three (3) or more years are remaining on the general permit term; or

(B) Apply for an operating permit at least 12 months prior to permit expiration, pursuant to OAR 340-218-0040, if less than three (3) years remain on the general permit term.

**Statutory/Other Authority:** ORS 468.020, ORS 468A.025, 468A.040 & 468A.310

**Statutes/Other Implemented:** ORS 468A

**History:**

DEQ 7-2015, f. & cert. ef. 4-16-15

DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2170

DEQ 22-1995, f. & cert. ef. 10-6-95

DEQ 24-1994, f. & ef. 10-28-94

DEQ 13-1993, f. & ef. 9-24-93

## **Division 218**

### **OREGON TITLE V OPERATING PERMITS**

#### **340-218-0090**

##### **General Permits**

(1) DEQ may, at its own discretion, after notice and opportunity for public participation provided under OAR 340-218-0210, issue general permits for sources that meet the criteria in section (3). General permits must comply with all requirements applicable to other Oregon Title V Operating Permits, including but not limited to emission limitations and standards, monitoring and related recordkeeping and reporting requirements, fees, and criteria by which sources may qualify for general permits.

(2) Any source may petition DEQ to establish a general permit and must do so within 60 days of becoming subject to the rule requiring a Title V permit. If DEQ determines that a general permit is not appropriate, the source shall file a complete application for a Title V permit within 90 days of the DEQ determination.

(3) The owner or operator of a source which meets the following criteria may apply to be covered under the terms and conditions of a general permit:

(a) There are several permittees, permit applicants or potential permit applicants who have the same or substantially similar operations, emissions, activities or facilities;

(b) The permittees, permit applicants or potential permit applicants emit the same types of regulated air pollutants;

(c) The operations, emissions, activities or facilities are subject to the same or similar standards, limitations and operating requirements;

(d) The operations, emissions, activities or facilities are subject to the same or similar monitoring requirements;

(e) The permittees, permit applicants or potential permit applicants have the ability to comply with the general permit;

(f) The burden for DEQ to develop the general permit is not arduous; and

(g) DEQ does not consider the existing source to be a problem source based on its complaint record and compliance history or does not anticipate the new source will be a problem source based on the source category and the emissions.

(4) General permits may be issued for the following purposes:

(a) To establish terms and conditions to implement applicable requirements;

(b) To establish terms and conditions to implement applicable requirements for specified categories of changes to permitted sources; and

(c) To establish Plant Site Emission Limits under OAR 340 division 222 from sources in the specified category.

(5) Notwithstanding the shield provisions of OAR 340-218-0110, the source will be subject to enforcement action for operation without an Oregon Title V Operating Permit if the source is later determined not to qualify for the conditions and terms of the general permit.

(6) General permits will not be authorized for affected sources under the national acid rain program unless provided in regulations promulgated under Title IV of the FCAA.

(7)(a) Oregon Title V Operating Permit program sources that would qualify for a general permit must apply to DEQ for coverage under the terms of the general permit or must apply for an Oregon Title V Operating Permit consistent with OAR 340-218-0040.

(b) If some but not all of a source's operations, activities and emissions are eligible for coverage under a general permit, the source must apply for and receive coverage under an Oregon Title V Operating permit under OAR 340-218-0040.

(c) DEQ may, in the general permit, provide for applications which deviate from the requirements of OAR 340-218-0040, provided that such applications meet the requirements of Title V of the FCAA and include all information necessary to determine qualification for, and compliance with, the general permit.

(d) Without repeating the public participation procedures required under OAR 340-218-0210, DEQ may grant an owner's or operator's request for authorization to operate under a general permit if the source meets the applicability criteria for the general permit, but such a grant will not be a final permit action for purposes of judicial review.

(8) When an emissions limitation applicable to a general permit source is promulgated by the EPA or adopted by the state, the source must:

(a) Immediately comply with the provisions of the applicable emissions standard; and

(b)(A) Within 12 months of standard promulgation, apply for an operating permit, pursuant to OAR 340-218-0040, if three (3) or more years are remaining on the general permit term; or

(B) Apply for an operating permit at least 12 months prior to permit expiration, pursuant to OAR 340-218-0040, if less than three (3) years remain on the general permit term.

Attachment B: Rules with edits incorporated  
April 24, 2020, EQC special meeting  
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**Statutory/Other Authority:** ORS 468.020, ORS 468A.025, 468A.040 & 468A.310

**Statutes/Other Implemented:** ORS 468A

**History:**

DEQ 7-2015, f. & cert. ef. 4-16-15

DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2170

DEQ 22-1995, f. & cert. ef. 10-6-95

DEQ 24-1994, f. & ef. 10-28-94

DEQ 13-1993, f. & ef. 9-24-93