



Oregon Department of Environmental Quality

Jan. 7- 8, 2015

**Oregon Environmental Quality Commission meeting
Rulemaking, Action item: D**

Increase Title V Permit Fees by the Consumer Price Index

DEQ recommendation to EQC

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

Overview

Short summary

DEQ proposes rules to increase Title V operating permit fees by the change in the consumer price index as authorized by federal and state law. The proposed fee increases are necessary for DEQ to provide essential services associated with Oregon's Title V operating permit program.

The proposed rules would increase fees in invoice year 2015 and are the second rulemaking of two phases. This two-phase approach saved administrative costs because DEQ held a single public notice and comment period for two rulemakings.

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|-----------|---|
| Phase one | DEQ proposed, and the commission adopted, phase one rules at the commission's meeting in August 2014. The adopted fee increase was effective for invoice year 2014. The increase was 1.7 percent based on the federal Bureau of Labor Statistics September 2013 consumer price index for the period Sept. 1, 2012, through Aug. 31, 2013. DEQ applied this CPI increase to permit fees on the invoices DEQ issued beginning in September 2014 for emission fees and the operating period Nov. 15, 2014, to Nov. 14, 2015. |
| Phase two | DEQ will propose phase two rules at the commission's meeting in January 2015. The proposed fee increase effective for invoice year 2015 is an additional 1.6 percent based on the Bureau of Labor Statistics September 2014 consumer price index for the period Sept. 1, 2013, through Aug. 31, 2014. DEQ would apply the 2014 CPI increase to permit fees on the invoices DEQ will issue in August 2015 for 2014 emission fees and the operating period Nov. 15, 2015, to Nov. 14, 2016. |

Background

Title V of the federal Clean Air Act requires each state to develop and implement a comprehensive operating permit program for major industrial sources of air pollution.

Oregon's Title V program:

- Administers federal health standards, air toxic requirements and other regulations to protect air quality
- Issues, renews or modifies Title V permits to prevent or reduce air pollution through permit requirements
- Completes required Title V inspections
- Ensures that existing sources of air pollution comply with state and federal air emissions standards
- Ensures that new sources of air pollution install controls such as filtration equipment, combustion controls and vapor controls needed to protect air quality
- Issues public notices and information about the Title V program
- Provides other essential services such as emission inventories, technical assistance, inspections, enforcement, rule and policy development, data management and reporting to EPA

Regulated parties

The proposed rules would affect facilities that currently have a Title V permit and any facility that applies for this type of permit in the future.

Request for other options

During the public comment period, DEQ requested public comment on whether to consider other options for achieving the rules' substantive goals while reducing negative economic impact of the rule on business. A summary of comments and DEQ responses is provided in this document.

Statement of need

What need would the proposed rule address?

EPA delegates authority to DEQ to operate the Title V program in Oregon and regularly reviews Oregon's program for compliance with federal requirements. DEQ must comply with federal requirements to maintain a federally approved and delegated program.

The federal Clean Air Act requires each state to fully pay for its Title V program through permit fees. The Oregon Legislature established Oregon's Title V fees in three categories:

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

The fees cover DEQ's costs to operate the Title V program. Costs include a portion of air quality monitoring, planning and agency central services such as accounting and human resources. The Clean Air Act and state law authorize DEQ to increase fees by the annual change in the consumer price index to meet funding requirements by considering inflation.

Oregon's Title V operating permit program requires additional funding to provide essential program services. Costs have increased over the last two years due to inflation. The Environmental Quality Commission last increased Title V fees in 2012, which were calculated to provide requisite program services up to August 2014. Earlier in 2014, the commission the first of two phases of increases, to reflect the 2013 and 2014 CPI increases, to continue program operations. DEQ calculates the proposed fees would allow Oregon to provide requisite program services up to August 2016. Failure to increase Title V fees could affect DEQ's ability to maintain adequate program staff and jeopardize effective program administration.

How would the proposed rule address the need?

The proposed rules would increase Title V permit fees by the change in the consumer price index to pay for increased program costs.

How will DEQ know the rule has addressed the need?

The rules will have addressed the need if the increased fees help the Title V program balance its budget and avoid a disruption in requisite services.

Rules affected, authorities, supporting documents

Lead division Program or activity
Operations Division Title V Operating Permit Program

Chapter 340 action
Amend OAR 340-220-0030, 340-220-0040, 340-220-0050

Statutory authority
ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050, 468A.310 and 468A.315

Statute implemented Legislation
ORS 468.065, 468A.050 and 468A.315

Documents relied on for rulemaking ORS 183.335(2)(b)(C)

Document title	Document source
2013-2015 Legislatively approved budget	http://sos.oregon.gov/Documents/sos-budget-2013-2015.pdf
Clean Air Act, including Clean Air Act Amendments of 1990	http://www.epw.senate.gov/envlaws/cleanair.pdf
U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index	http://www.bls.gov/data/

Fee Analysis

The proposed rules would increase existing Title V fees. EQC authority to act on the proposed fees is in ORS 468A.050.

Oregon's Title V program administers federal health standards, air toxic requirements and other regulations to reduce the number of unhealthy air days and health risks from air toxics. The program issues, renews or modifies permits to prevent or reduce air pollution through permit requirements. In addition, it ensures existing pollution sources comply with state and federal air emissions standards and new sources of air pollution install controls such as filtration equipment, combustion controls and vapor controls needed to protect air quality. Other essential services include emission inventories, technical assistance, inspections, enforcement, rule and policy development, data management and reporting to EPA.

Brief description of proposed fees

The Oregon Legislature established Oregon's Title V fees in three categories. The proposed rules would increase the annual base fees, emission fees and specific activity fees, described under the Statement of need section above and based on the consumer price index described under the Summary section on page one.

Reasons

The proposed fees would address increased program costs.

Fee proposal alternatives considered

Federal law requires DEQ to perform requisite program services to retain delegation of the Title V program. Federal law also requires DEQ to fund the permit program entirely by permit fees. DEQ could decline to administer the program, shifting the program from DEQ to EPA; however, DEQ has chosen not to pursue this alternative to maintain regulatory consistency for the regulated public and citizens of Oregon.

Fee payer

Title V permit holders include many of the largest industrial facilities in the state and are the largest point sources of air pollution in the state. These facilities are mainly large employers and produce items for local and regional consumption. Title V permit holders are an important part of the Oregon economy.

Affected party involvement in fee-setting process

DEQ negotiated with Title V stakeholders when the fees were increased in the 2007 legislative session and again during the 2009 session when the statutory language related to annual consumer price index increases was clarified.

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

Summary of impacts

The proposed fee increase would affect the 115 facilities that currently have a Title V permit and any facility that applies for this type of permit in the future.

Fee payer agreement with fee proposal

DEQ has increased Title V fees regularly since the Title V program began in the early 1990s. Fee payers generally do not oppose this annual fee increase equal to the rate of inflation.

Links to supporting documents for proposed fees

Document title	Document source
2013-2015 Legislatively approved budget	http://sos.oregon.gov/Documents/sos-budget-2013-2015.pdf
Clean Air Act, including Clean Air Act Amendments of 1990	http://www.epw.senate.gov/envlaws/cleanair.pdf
U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index	http://www.bls.gov/data/

How long will the current fee sustain the program?

The current fees will not sustain the program.

Biennial Program costs covered by fees	approx. \$7,800,000	100%
Program costs covered by General Fund	\$0	0%
Fee last changed	9/4/2014	

How long will the proposed fee sustain the program?

The proposed fee increase for invoice year 2015 will sustain the program up to August 2016.

Expected change in revenue (+/-)	+ \$61,940	+1.6 %
Min GF required by statute/rule to fund program	\$0	0%
Proposed fee allows General Fund replacement	\$0	0%
Expected effective date	1/9/2015	

Transactions and revenue

DEQ estimated revenue forecasts and expenditures based on the assumption that DEQ identified all facilities subject to the Title V program and that the number of Title V permits and facility emissions will remain approximately the same as invoiced in 2013.

Transactions includes the number of invoices DEQ issues for annual permit fees each August and number of invoices DEQ issues for specific activity fees. DEQ issues specific activity fees throughout the year depending on the number of new permit applications and changes to existing permits. These fees are a small portion of program revenue.

The revenue forecasts and expenditures in DEQ's public notice for the proposed rules were based on the assumption that the proposed fee increase for invoice year 2015 would be 1.7 percent, identical to the increase for invoice year 2014. DEQ recalculated the proposed fee increase for invoice year 2015 after the Bureau of Labor Statistics published the September 2014 consumer price index. The proposed fee increase effective for invoice year 2015 would be 1.6 percent instead of 1.7 percent and is reflected in the table below. The proposed fees have no effect on revenue in the current biennium (2013-2015).

Next biennium 2015-2017	Number of transactions	Number of Fee Payers	Impact on revenue (+/-)	Total revenue (+/-)
	250	115	+ \$61,600	\$8,068,000

Fee schedule

The following table shows the amounts of the proposed fees.

Proposed Fees				
Fee category	2013 Fee	2014 Fees Adopted in August 2014	Estimated Proposed 2015 Fees ¹	Actual Proposed 2015 Fees ²
Annual Title V Fees				
Emission Fee	\$57.90	\$58.88	\$59.88	\$59.81
Annual Base Fee	\$7,657	\$7,787	\$7,919	\$7,910
Specific Activity Fees				
Administrative Amendment	\$466	\$474	\$482	\$482
Simple Modification	\$1,867	\$1,899	\$1,931	\$1,929
Moderate Modification	\$14,008	\$14,245	\$14,487	\$14,471
Complex Modification	\$28,016	\$28,491	\$28,974	\$28,942
Air Monitoring Review	\$3,735	\$3,798	\$3,863	\$3,858

¹ Fees in DEQ's public notice for the proposed rules were based on an estimate of the 2014 consumer price index.

² Fees in the final proposed rules for invoice year 2015 are based on the actual 2014 consumer price index.

Statement of fiscal and economic impact

When DEQ published the fiscal and economic impact statement in June 2014, DEQ included the proposed fee increases for the 2014 and 2015 invoice years. At that time, DEQ estimated the proposed fee increase for invoice year 2015 would be 1.7 percent, identical to the increase for invoice year 2014. However, to comply with the laws authorizing the commission to increase fees, DEQ recalculated the proposed fee increase for invoice year 2015 after the Bureau of Labor Statistics published the September 2014 consumer price index. As a result of the recalculation, the fee increase effective for invoice year 2015 would be 1.6 percent instead of 1.7 percent. The final proposed fee increase of 1.6 percent is reflected in the proposed rules.

Fiscal and Economic Impact (as published in June 2014)

The increase in Title V permit fees would affect approximately 115 permit holders directly and increase annual program revenue by approximately 1.7 percent in the 2014 invoice year and an additional 1.7 percent in the 2015 invoice year.

The direct impact of the fee increase on permit holders is based on an assumption that emissions will remain the same in future years and that the 2014 change in the consumer price index will be the same as the 2013 change in the index.

Title V permit holders are subject to Oregon's greenhouse gas reporting program and most of the permit holders are subject to the greenhouse gas reporting fees. The greenhouse gas reporting fee is equal to 15 percent of their Title V annual base and emission fees, up to a maximum greenhouse gas reporting fee of \$4,500. Because the greenhouse gas reporting fee calculation is a percentage of the Title V fees, the proposed increase in Title V permit fees would result in a 1.7 percent increase in the greenhouse gas reporting fees for these permit holders in the invoices DEQ will issue in 2014, and an additional 1.7 percent increase in the invoices DEQ will issue in 2015. The cap of \$4,500 remains unchanged.

Statement of Cost of Compliance

1. State and federal agencies

Direct impact: Oregon Health Sciences University is the only state agency that holds a Title V permit, and paid Title V permit fees of \$14,083.90 in 2013. The proposed rules would increase their permit fees by about \$240 for 2014 and an additional estimated \$250 for 2015. OHSU is also subject to greenhouse gas reporting fees equal to 15 percent of its annual emission fee and base fee. OHSU paid \$2,112.59 in greenhouse gas reporting fees in 2013. As a result of the proposed rules, OHSU's greenhouse gas reporting fees would increase by about \$36 in 2014 and increase by an additional estimated \$37 in 2015. No federal agencies hold Title V permits.

Indirect impact: Changes to fees could affect state and federal agencies indirectly if businesses holding Title V permits change the price of goods and services to offset any increased costs from paying a permit fee.

2. DEQ

DEQ has no facilities that require a Title V permit. The proposed fee increases would provide funding necessary to perform requisite program services. Changes to fees could affect DEQ indirectly if businesses holding Title V permits change the price of goods and services to offset any increased costs from paying a permit fee.

3. Local governments

Direct Impacts Oregon requires county and city local governments to obtain a Title V major source permit for municipal waste landfills. Fees would increase for two landfills operated by local governments:

- Metropolitan Service District, St. Johns Landfill paid Title V annual permit fees of \$7,946.50 in 2013. The proposed rules would increase their 2014 fees by about \$135 and an additional estimated \$137 increase for 2015. St. John's Landfill is subject to greenhouse gas reporting fees equal to 15 percent of their annual emission fee and base fee. This fee would increase by about \$20 in 2014 and increase an additional estimated \$21 in 2015.
- Deschutes County Solid Waste Department, Knott Landfill paid Title V annual permit fees of \$9,973 in 2013. The proposed rules would increase their 2014 fees by about \$170 and an additional estimated \$172 for 2015. Knott Landfill is subject to greenhouse gas reporting fees equal to 15 percent of their annual emission fee and base fee. This fee would increase by about \$25 in 2014 and increase an additional estimates \$26 in 2015.

Indirect Impacts Changes to fees could affect local governments indirectly if businesses holding Title V permits change the price of goods and services to offset any increased costs from paying a permit fee.

4. Public

The proposed rules would not affect the public directly. Air pollution creates public health problems that can have negative economic impacts. The proposed fee increases could create positive economic benefits and improvements in public health and welfare resulting from an adequately funded Title V program. Fee increases that provide sufficient resources for compliance and technical assistance may help avoid public health costs associated with lower compliance and increased air pollution.

Changes to fees could also affect the public indirectly if businesses holding Title V permits increase the price of goods and services to offset the increased costs of paying a permit fee. DEQ expects any such price increases to be small and lacks available information upon which it could accurately estimate actual potential increases.

5. Large businesses - businesses with more than 50 employees

Direct Impacts Approximately 100 large businesses hold Title V permits and a fee increase would affect these permit holders directly. The type of permit required for a facility determines the permit fees regardless of the number of employees.

The proposed annual base fees and emission fees are in the following table. The annual base fee is small in comparison to the emission fees paid by most sources. The rulemaking would also increase specific activity fees and contribute a small portion of Title V program revenue.

Proposed Title V Emission Fees and Annual Base Fees					
Fee category	2013 Fee invoiced in fall 2013	Proposed 2014 Fees (to be invoiced in fall 2014)	Increase over 2013 Fees	Proposed 2015 Fees ¹ (to be invoiced in fall 2015)	Increase over 2014 Fees
Emission Fee	\$57.90	\$58.88	\$0.98	\$59.88	\$1.00
Annual Base Fee	\$7,657	\$7,787	\$130	\$7,919	\$132

¹ Fees based on an estimate of the 2014 consumer price index.

The requirement for a Title V permit is based on quantity of emissions from a facility. In general, lower emitting sources with less complex permits would experience a smaller annual dollar impact from the proposed fee increases. The table below shows the effect of the proposed fees on invoices issued to sources emitting 50, 250, 500 or 5,000 tons per year.

Result of Proposed Fees by Quantity of Emissions					
Fee category	2013 Fee invoiced in fall 2013	Proposed 2014 Fees (to be invoiced in fall 2014)	Increase over 2013 Fees	Proposed 2015 Fees ¹ (to be invoiced in fall 2015)	Increase over 2014 Fees
50 tons/yr	\$10,552	\$10,731	\$179	\$10,913	\$182
250 tons/yr	\$22,132	\$22,502	\$370	\$22,889	\$387
500 tons/yr	\$36,607	\$37,227	\$620	\$37,859	\$632
5,000 tons/yr	\$297,157.00	\$302,187	\$5,030	\$307,319	\$5,132

¹ Fees based on an estimate of the 2014 consumer price index.

Approximately 80 large businesses holding Title V permits are subject to greenhouse gas reporting fees equal to 15 percent of their annual emission fee and base fee. Because the greenhouse gas reporting fee is calculated as a percentage of the Title V fees, the proposed increase in Title V permit fees would result in a 1.7 percent increase in the greenhouse gas reporting fees for these permit holders in the 2014 invoice year, and an additional 1.7 percent increase in the 2015 invoice year.

Indirect Impacts Changes to fees could affect businesses indirectly if other businesses holding Title V permits change the price of goods and services to offset any increase of paying a permit fee.

6. Small businesses – businesses with 50 or fewer employees ORS 183.336

Direct Impacts Most Title V permit holders are large businesses, but the requirement to hold a permit is based on potential emission levels rather than business size. Approximately 15 small

businesses are required to hold Title V permits because their potential emissions exceed Title V applicability thresholds. None of the small businesses holding Title V permits emit more than 250 tons per year in a typical year. Businesses emitting 250 tons per year would experience a fee increase of \$370 in 2014 over existing fees and an additional fee increase of \$387 in 2015 over 2014 fees. None of the small businesses are subject to greenhouse gas reporting fees.

Indirect Impacts Changes to fees could affect small businesses if other businesses holding Title V permits change the price of goods and services to offset any increased costs from paying a permit fee.

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

DEQ estimates that approximately 13 percent of Title V permit holders (about 15 businesses) are small businesses with 50 or fewer employees, such as such as fiberglass reinforced plastic facilities and smaller wood refinishing operations.

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 rule amendments do not establish any additional reporting, recordkeeping or other administrative activities.

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

The proposed rule amendments do not require any additional equipment, supplies, labor or increased administration.

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

DEQ provided notice of the proposed rules to all Title V permit holders, including those that are small businesses.

Documents relied on for fiscal and economic impact

Document title	Document source
2013-2015 Legislatively approved budget	http://sos.oregon.gov/Documents/sos-budget-2013-2015.pdf
Clean Air Act, including Clean Air Act Amendments of 1990	http://www.epw.senate.gov/envlaws/cleanair.pdf
U.S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index	http://www.bls.gov/data/

Advisory committee

DEQ did not convene an advisory committee for the proposed rules because federal law and Oregon statute authorize the fee increases.

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. It is possible that a permit holder could change the price of goods and services to pass on any fee changes to consumers, though any estimate of the possible impact would be speculative using information available at this time.

Request for other options

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

Federal relationship

"It is the policy of this state that agencies shall seek to retain and promote the unique identity of Oregon by considering local conditions when an agency adopts policies and rules. However, since there are many federal laws and regulations that apply to activities that are also regulated by the state, it is also the policy of this state that agencies attempt to adopt rules that correspond with equivalent federal laws and rules..." ORS 183.332

Relationship to federal requirements

This section complies with OAR 340-011-0029 and ORS 468A.327 to clearly identify the relationship between the proposed rules and applicable federal requirements.

The proposed rulemaking is not different from, or in addition to, applicable federal requirements and impose stringency equivalent to federal requirements. The proposed rules implement federal requirements of the Clean Air Act and EPA rules (40 CFR Part 70) that Oregon's Title V operating permit program be fully funded through permit fees.

What alternatives did DEQ consider if any?

During the public comment period, DEQ requested public comment on whether to consider other options for achieving the rule's substantive goals while reducing negative economic impact of the rule on business. Federal law requires DEQ to perform requisite program services to retain delegation of the Title V program. Federal law also requires DEQ to fund the permit program entirely by permit fees. DEQ could decline to administer the program, shifting the program from DEQ to EPA; however, DEQ has chosen not to pursue this alternative to maintain regulatory consistency for the regulated public and citizens of Oregon.

Land use

“It is the Commission's policy to coordinate the Department's programs, rules and actions that affect land use with local acknowledged plans to the fullest degree possible.” OAR 340-018-0010

Land-use considerations

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

- Statewide planning goals for specific references. Section III, subsection 2 of the DEQ State Agency Coordination Program document identifies the following statewide goal relating to DEQ's authority:

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

- OAR 340-018-0030 for EQC rules on land-use coordination. Division 18 requires DEQ to determine whether proposed rules will significantly affect land use. If yes, how will DEQ:
 - Comply with statewide land-use goals, and
 - Ensure compatibility with acknowledged comprehensive plans, which DEQ most commonly achieves by requiring a [Land Use Compatibility Statement](#).
- DEQ's mandate to protect public health and safety and the environment.
- Whether DEQ is the primary authority that is responsible for land-use programs or actions in the proposed rules.
- Present or future land uses identified in acknowledged comprehensive plans.

Determination

DEQ determined that the proposed rules listed under the Chapter 340 Action section above **do not affect** existing rules, programs or activities that are considered land-use programs and actions in OAR 340-018-0030 or in the DEQ State Agency Coordination Program.

Stakeholder and public involvement

Advisory committee

DEQ did not convene an advisory committee for the proposed rules because federal law and Oregon statute authorize the fee increases.

EQC prior involvement

DEQ shares general rulemaking information with EQC through the monthly Director's Report. DEQ did not present additional information specific to this proposed rule revision.

Public notice

DEQ provided the Notice of Proposed Rulemaking with Hearing for this rulemaking as follows:

DEQ provided notice to Secretary of State for publication in the June 2014 [*Oregon Bulletin*](#)

On Friday, May 16, 2014, DEQ provided notice by:

- DEQ's Rulemaking Web page
<http://www.oregon.gov/deq/RulesandRegulations/Pages/2014/TVCPI.aspx>
- Email to Environmental Protection Agency, Region 10, Seattle
- Email to approximately 6,784 interested parties through GovDelivery, including lists for Agency Rulemaking, Air Quality Permits and Title V Permit Program Public and 85 representatives of permit holders
- U.S. Postal Service to about 29 representatives of permit holders that do not have email addresses on file.
- Email to the following legislators as required under [ORS 183.335](#):
 - State Sen. Chris Edwards, Co-Chair, Ways and Means Sub-Committee on Natural Resources
 - State Rep. Ben Unger, Co-Chair, Ways and Means Sub-Committee on Natural Resources
 - State Sen. Richard Devlin, Co-Chair, Ways and Means Sub-Committee
 - State Rep. Peter Buckley, Co-Chair, Ways and Means Sub-Committee

DEQ provided legal notice in the following newspapers:

- | | |
|------------------------------------|---------------------------------|
| • <i>The Oregonian</i> | publication date – May 16, 2014 |
| • <i>Daily Journal of Commerce</i> | publication date – May 16, 2014 |

Public hearings and comment

DEQ held one public hearing for the phase one and phase two rulemakings. DEQ received two public comments. The summary of comments and DEQ responses section below addresses each public comment. The commenter section below lists all people who provided comments on this proposal.

Presiding Officers' Record

Presiding officer report date: Tuesday, June 17, 2014

Hearing date: Monday, June 16, 2014

Location: DEQ headquarters. 10th floor, Conference Room EQC A
811 SW 6th Ave. Portland OR 97204-1390

Time convened: 5:30 p.m.

Time adjourned: 6:15 p.m.

Presiding officer: Gregg Dahmen, P.E., Permit Consultant

Gregg Dahmen, the presiding officer, convened the hearing at 5:30 p.m. No one attended the hearing. Dahmen closed the hearing at 6:15 p.m.

Close of public comment period

DEQ closed the comment period June 19, 2014, at 5 p.m.

Summary of comments and DEQ responses

The following is a summary of comments DEQ received during the public comment period with cross references to the commenter number. DEQ's response follows the summary. Original comments are on file with DEQ.

DEQ is proposing no changes to the rules in response to the comments received.

- 1 **Comment** Why doesn't DEQ use a regional consumer price index? Why does DEQ use the September 2013 index when that index will be nearly a year old when applied to the fees?

DEQ received one comment in this category from commenter 1 listed in the *Commenter* section below.

Response The federal Clean Air Act requires each state to fully pay for its Title V program through permit fees. Federal code 42 USCS § 7661a specifies the method DEQ must use to calculate the fees. In order to maintain the Title V permit program, DEQ increases the fees annually using the national Consumer Price Index as published monthly by the Bureau of Labor and Industries. The federal law requires states to use a 12-month average for the period ending August 31 of each year. The August index is published about September 20 each year. DEQ calculates the fee increase for the following calendar year at that time. As required by federal law, DEQ used the September 2013 index to calculate fees for the 2014 invoice year and DEQ used the September 2014 index to calculate fees for the 2015 invoice year.

- 2 **Comment** No more fees should be charged for the Title V permitting program.
DEQ received one comment in this category from commenter 2 listed in the *Commenter* section below.
- Response The federal Clean Air Act requires each state to fund its Title V program through permit fees. DEQ proposes to increase the fees to keep the permit program fully funded during a time of increasing costs and to maintain the same level of service to the public and the regulated community.

Commenters

Comments received by close of public comment period

The table below lists two people and organizations that submitted public comments on the proposed rules by the deadline. Original comments are on file with DEQ.

- 1 **Commenter** Laura Leebrick, Government Affairs Director
Affiliation Oregon Refuse and Recycling Association
This commenter submitted comments under category 1 in the *Summary of comments and DEQ responses* section above.
- 2 **Commenter** Nick Maness
Affiliation North Bend Prospectors
This commenter submitted comments under category 2 in the *Summary of comments and DEQ responses* section above.

Implementation

Notification

If adopted by the Environmental Quality Commission, the proposed rules would become effective when filed and certified by the Secretary of State, approximately Jan. 9, 2015. DEQ would apply the specific activity fees upon the effective date and invoice annual fees to affected parties in August 2015 with payment due Oct. 1, 2015, or later. Because this is a continuation of an existing program, no additional resources or training will be needed to implement the rule.

Systems

DEQ staff will update the fee amounts in the invoicing software.

Five-year review

Requirement [ORS 183.405](#)

The state Administrative Procedures Act requires DEQ to review **new** rules within five years of the date the EQC adopts the proposed rules. Though the review will align with any changes to the law in the intervening years, DEQ based its analysis on current law.

Exemption from five-year rule review

The Administrative Procedures Act exempts all of the proposed rules from the five-year rule review because the proposed rules would amend an existing rule. ORS 183.405 (4)

DEPARTMENT OF ENVIRONMENTAL QUALITY

DIVISION 220

OREGON TITLE V OPERATING PERMIT FEES

340-220-0030

Annual Base Fee

~~(1) DEQ will assess an annual base fee of \$7,657 for each source subject to the Oregon Title V Operating Permit program for the period of November 15, 2013 to November 14, 2014.~~

~~(12)~~ DEQ will assess an annual base fee of \$7,787 for each source subject to the Oregon Title V Operating Permit program for the period of November 15, 2014 to November 14, 2015, ~~and for each annual period thereafter.~~

(2) DEQ will assess an annual base fee of \$7,910 for each source subject to the Oregon Title V Operating Permit program for the period of November 15, 2015 to November 14, 2016, and for each annual period thereafter.

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 7-1996, f. & cert. ef. 5-31-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2580; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2001, f. 6-28-01, cert. ef. 7-1-01; DEQ 11-2003, f. & cert. ef. 7-23-03; DEQ 6-2004, f. & cert. ef. 7-29-04; DEQ 6-2005, f. & cert. ef. 7-11-05; DEQ 7-2006, f. & cert. ef. 6-30-06; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08; DEQ 4-2009(Temp), f. & cert. ef. 8-27-09 thru 2-20-10; Administrative correction 3-18-10; DEQ 16-2010, f. & cert. ef. 12-20-10; DEQ 5-2012, f. & cert. ef. 7-2-12; DEQ 9-2012, f. & cert. ef. 12-11-12; DEQ 10-2014, f. & cert. ef. 9-4-14

340-220-0040

Emission Fee

~~(1) DEQ will assess an emission fee of \$ 57.90 per ton of each regulated pollutant emitted during calendar year 2012 to each source subject to the Oregon Title V Operating Permit Program.~~

~~(12)~~ DEQ will assess an emission fee of \$58.88 per ton of each regulated pollutant emitted during calendar year 2013 ~~and for each calendar year thereafter~~ to each source subject to the Oregon Title V Operating Permit Program.

(2) DEQ will assess an emission fee of \$59.81 per ton of each regulated pollutant emitted during calendar year 2014 and for each calendar year thereafter to each source subject to the Oregon Title V Operating Permit Program.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1995, f. & cert. ef. 5-23-95; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 7-1996, f. & cert. ef. 5-31-96; DEQ 9-1997, f. & cert. ef. 5-9-97; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2590; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2001, f. 6-28-01, cert. ef. 7-1-01; DEQ 11-2003, f. & cert. ef. 7-23-03; DEQ 6-2004, f. & cert. ef. 7-29-04; DEQ 6-2005, f. & cert. ef. 7-11-05; DEQ 7-2006, f. & cert. ef. 6-30-06; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08; DEQ 4-2009(Temp), f. & cert. ef. 8-27-09 thru 2-20-10; Administrative correction 3-18-10; DEQ 16-2010, f. & cert. ef. 12-20-10; DEQ 5-2012, f. & cert. ef. 7-2-12; DEQ 9-2012, f. & cert. ef. 12-11-12; DEQ 10-2014, f. & cert. ef. 9-4-14

340-220-0050

Specific Activity Fees

~~(1) DEQ will assess specific activity fees for an Oregon Title V Operating Permit program source for the period of January 1, 2013 to August 31, 2014 as follows:~~

~~(a) Existing source permit revisions:~~

~~(A) Administrative*—\$466;~~

~~(B) Simple—\$1,867;~~

~~(C) Moderate—\$14,008;~~

~~(D) Complex—\$28,016.~~

~~(b) Ambient air monitoring review—\$3,735.~~

(12) DEQ will assess specific activity fees for an Oregon Title V Operating Permit program source for the periodas of September 1, 2014 to [INSERT ONE DATE PRIOR TO SOS FILING DATE OF RULES] as follows:

(a) Existing source permit revisions:

(A) Administrative* —\$474;

(B) Simple —\$1,899;

(C) Moderate —\$14,245;

(D) Complex —\$28,491.

(b) Ambient air monitoring review —\$3,798.

(2) DEQ will assess specific activity fees for an Oregon Title V Operating Permit program source as of [INSERT SOS FILING DATE OF RULES] as follows:

(a) Existing source permit revisions:

(A) Administrative* —\$482;

(B) Simple —\$1,929;

(C) Moderate —\$14,471;

(D) Complex —\$28,942.

(b) Ambient air monitoring review —\$3,858.

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

(3) DEQ will assess the following specific activity fee for an Oregon Title V Operating Permit program source for annual greenhouse gas reporting, as required by OAR 340-215-0060(1) —15 percent of the following, not to exceed \$4,500:

(a) The applicable annual base fee (for the period of November 15 of the current year to November 14 of the following year); and

(b) The applicable annual emission fee (for emissions during the previous calendar year).

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-2600; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 7-2001, f. 6-28-01, cert. ef. 7-1-01; DEQ 11-2003, f. & cert. ef. 7-23-03; DEQ 6-2004, f. & cert. ef. 7-29-04; DEQ 6-2005, f. & cert. ef. 7-11-05; DEQ 7-2006, f. & cert. ef. 6-30-06; DEQ 6-2007(Temp), f. & cert. ef. 8-17-07 thru 2-12-08; Administrative correction 2-22-08; DEQ 10-2008, f. & cert. ef. 8-25-08; DEQ 4-2009(Temp), f. & cert. ef. 8-27-

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09 thru 2-20-10; DEQ 9-2009(Temp), f. 12-24-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10; DEQ 12-2010, f. & cert. ef. 10-27-10; DEQ 16-2010, f. & cert. ef. 12-20-10; DEQ 11-2011, f. & cert. ef. 7-21-11; DEQ 12-2011, f. & cert. ef. 7-21-11; DEQ 5-2012, f. & cert. ef. 7-2-12; DEQ 9-2012, f. & cert. ef. 12-11-12; DEQ 10-2014, f. & cert. ef. 9-4-14