



Oregon Department of Environmental Quality

June 18-19, 2014

Oregon Environmental Quality Commission meeting Rulemaking Action Item: K

Increase Air Contaminant Discharge Permit Fees

DEQ recommendation to the 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.

Overview

Short summary

DEQ proposes rules to:

Increase air contaminant discharge permit fees. The 2013 Oregon Legislature authorized a 20 percent fee increase to restore services for operating Oregon's air contaminant discharge permit program. The fee increase would prevent DEQ from losing 3.67 full-time equivalent positions authorized in DEQ's 2013 legislatively approved budget.

Establish a lower application fee for greenhouse gas permits. The proposed lower application fee would apply to facilities that require a New Source Review or Prevention of Significant Deterioration permit for greenhouse gases when obtaining an air contaminant discharge permit or modifying their existing permit.

Adjust the calculation for greenhouse gas reporting fees. The proposed rules would adjust the percentage of the air contaminant discharge permit fee used to calculate greenhouse gas reporting fees from 15 percent to 12.5 percent. This technical correction would prevent the 20-percent air contaminant discharge fee increase from also increasing the current greenhouse gas reporting fees.

Amend the low fee eligibility criteria. The proposed rules would make it easier for permitted facilities and DEQ to determine low fee eligibility for simple air contaminant discharge permits. The amendment would change the period used to capture eligibility data from rolling 12 months to a calendar year.

Background

The air contaminant discharge permit program is part of Oregon's federally-approved State Implementation Plan required to meet national air quality standards.

Oregon's air contaminant discharge permit program:

- Administers federal health standards, air toxic requirements and other regulations.
- Reduces the number of unhealthy air days and health risks from air toxics.
- Issues, renews or modifies permits to prevent or reduce air pollution through permit requirements.
- Ensures that existing pollution sources 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.
- Provides other essential services such as State Implementation Plan development, emission inventories, technical assistance, inspections, enforcement, rule and policy development, data management and reporting to EPA.

The permit fees also help support a portion of air quality monitoring, planning, and agency central services such as accounting and human resources.

Ninety-two percent of the revenue that Oregon needs to provide the requisite air quality program services comes from permit fees. State General Fund and federal funds provide the balance.

In 2013, the Environmental Quality Commission temporarily amended air contaminant discharge permit rules to allow DEQ to issue the 2014 annual fee invoices on schedule. The temporary rules adopted in October 2013 included the legislatively-approved fee increase and the technical correction to the greenhouse gas reporting fee.

Regulated parties

The proposed amendments would affect:

- Facilities that currently have an air contaminant discharge permit and any facility that applies for this type of permit in the future.
- Small facilities that do not have a permit, but are registered with the permit program and under OAR Chapter 340 Division 210 in lieu of holding a permit, such as dry cleaners and auto body shops.
- New facilities that are categorized as major sources of greenhouse gases and those that make major modifications to existing greenhouse gas existing facilities.

Statement of need

What need is DEQ trying to address?

Increase air contaminant discharge permit fees. Oregon last increased the air contaminant discharge permit fees in 2007. At that time, DEQ expected the 20 percent increase to sustain the program until 2011. DEQ implemented extensive program streamlining over the last decade that delayed the need for a fee increase until the issue of the 2014 annual fee invoices.

Since the 1990s, state and federal funds have declined and the air contaminant discharge permit fees have not kept pace with inflation because the law does not base fees on a price index. Current fees do not allow DEQ to serve the growing number of businesses that require air permits considering that number has increased from 1,100 in 2007 to over 2,600 in 2014. Streamlining efforts are no longer able to offset increased program costs without reducing requisite program services.

The 2013 Oregon Legislature approved Policy Package 111 as part of DEQ's budget bill, Senate Bill 5520. The bill helped avoid cutting 6.67 full time equivalent staff positions from its 2013-2015 budget. The proposed rules will allow DEQ to avoid losing 3.67 of those positions to the air contaminant discharge permit program based on an approximate 20 percent fee increase. DEQ has cut the remaining three positions permanently. DEQ expects that the annual revenue from a 20 percent fee increase would help DEQ provide the requisite permit program service through 2017.

Establish a lower application fee for greenhouse gas permit. Permit application procedures for greenhouse gas facilities required to go through New Source Review or Prevention of Significant Deterioration are less complex than procedures for non-greenhouse gas facilities. The current application fee for greenhouse gas permits is based on a requirement to install best available control technology, have a public hearing and model air quality impacts. Under new EPA and DEQ regulations, permit procedures and application fees for major greenhouse gas facilities do not require modeling air quality impacts.

Adjust the calculation for greenhouse gas reporting fees. Air contaminant discharge permit holders would pay higher greenhouse gas reporting fees as an unintended effect of increasing air contaminant discharge permit fees. The greenhouse gas reporting fee is calculated as a percentage of the permit fee.

Amend the low fee eligibility criteria. Current rules require an extra information gathering step to help determine low fee eligibility on a simple air contaminant discharge permit. These facilities pay either a high fee or a low fee. Eligibility for the low fee currently depends on a facility's 12-month rolling average emissions preceding the invoice date. A facility's annual report already documents calendar year emissions for a facility.

How would the proposed rule address the need?

Increase air contaminant discharge permit fees. The proposed rules would increase Oregon's air contaminant discharge permit fee by 20 percent, which would:

- Pay air contaminant discharge permit program expenditures.
- Help restore 3.67 full time equivalent staff positions.

Establish a lower application fee for greenhouse gas permit. The proposed rules would reduce the application fee for major greenhouse gas facilities to reflect more accurately the complexity of the permit and the procedures required to obtain the permit.

Adjust the calculation for greenhouse gas reporting fees. The proposed rules would prevent the 20-percent air contaminant discharge fee increase from also inadvertently increasing the current greenhouse gas reporting fees.

Amend the low fee eligibility criteria. The proposed rule would use calendar year emissions to determine low fee eligibility instead of the current 12-month rolling average emissions.

How will DEQ know the rule has addressed the need?

The rule will have addressed the need if:

- The proposed fees help the air contaminant discharge permit program balance its budget and restore staffing positions to provide requisite services.
- Facilities required to get an air permit due solely due to the greenhouse gas regulations pay a reduced fee for their permits.
- Permitted facilities avoid an increase in greenhouse gas reporting fees.
- Low fee eligibility is easier for permit holders and DEQ staff to determine

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 the negative economic impact of the rule on business.

Rules affected, authorities, supporting documents

Lead division Program or activity
Air Quality Division Air Contaminant Discharge Permit Program

Chapter 340 action

Adopt OAR 340-216-8010, 340-216-8020

Amend OAR 340-210-0100, 340-216-0020, 340-216-0025, 340-216-0040, 340-216-0052, 340-216-0054, 340-216-0056, 340-216-0060, 340-216-0062, 340-216-0064, 340-216-0066, 340-216-0070, 340-216-0090.

Statutory authority

ORS 468.020, 468.065, 468A.025, 468A.040, 468A.050

Other Authority

Statute implemented	Legislation	Year
ORS 468A.050	Senate Bill 5520	2013

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

Document title	Document location
Senate Bill 5520 (2013)	DEQ headquarters 811 SW 6 th Ave. Portland OR 97204
Senate Bill 5520 Budget Reports	DEQ headquarters

Fee Analysis

The proposed rules would increase existing fees, with one exception where the proposed rules would reduce an application fee. EQC authority to act on the proposed fees is ORS 468A.050.

Oregon's air contaminant discharge permit 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 that existing pollution sources comply with state and federal air emissions standards and that 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 State Implementation Plan development, emission inventories, technical assistance, inspections, enforcement, rule and policy development, data management and reporting to EPA.

Brief description of proposed fees

The proposed rules would:

- Increase annual fees for air contaminant discharge permits, attachments and registrations by approximately 20 percent.
- Increase application fees, special activity fees and other administrative fees for the air contaminant discharge permit program.
- Reduce the permit application fee for facilities subject to new federal rules for major greenhouse gas facilities.
- Not change the greenhouse gas reporting fees.

Reasons

The proposed rules would address:

- The anticipated increase in the cost for goods and services through 2017.
- Legislative concerns that the air contaminant discharge permit program has adequate funding. The 2013 Oregon Legislature approved DEQ's budget package restoring 3.67 full-time equivalent positions that would otherwise be cut, based on a 20 percent air contaminant discharge permit fee increase.
- New EPA and DEQ regulations for major greenhouse gases facilities.

Fee proposal alternatives considered

While developing Policy Package 111 as part of DEQ's budget bill, Senate Bill 5520, DEQ considered a smaller annual fee adjustment rather than a periodic large adjustment such as the proposed 20 percent fee increase. DEQ was unable to explore this strategy fully before the 2013 Oregon Legislature budget process required the information.

Considering that the current law does not include a provision to adjust the air contaminant discharge permit fees using a price index and regulated parties have historically paid the

majority of the costs for air contaminant discharge permit program, DEQ based the fee increases on the 2013 Oregon Legislature-approved Policy Package 111.

Fee payers

There are approximately 2,600 businesses that hold air contaminant discharge permits or are registered with the permit program, such as dry cleaners and auto body shops

Affected party involvement in fee-setting process

DEQ worked with Associated Oregon Industries when developing Policy Package 111.

Summary of impacts

Using 2012 invoice information, DEQ estimates the air contaminant discharge permit fee increase would affect:

- Seventy-three percent of the permit holders by increasing the annual fee in the range of \$24 to \$144,
- Nineteen percent of the permit holders by increasing the annual fee in the range of \$259 to \$384, and
- Eight percent of the permit holders by increasing the annual fee in the range of \$768 to \$1,536.

An additional proposed fee increase would affect about one percent of these permit holders each year by increasing the specific activity fee in the range of \$72 and \$8,400 per permit modification.

Fee payer agreement with fee proposal

Industrial groups that represent many of the fee payers did not oppose the fee increase during the legislative process.

Links to supporting documents for proposed fees

Document title	Document location
Senate Bill 5520 (2013)	DEQ headquarters 811 SW 6 th Ave. Portland OR 97204
Senate Bill 5520 Budget Reports	DEQ headquarters

How long will the current fee sustain the program?

The current fee will not sustain the program. Without the fee increase, DEQ would need to cut 3.67 positions in addition to the three positions DEQ permanently cut because of permitting process improvements.

Program costs currently covered by fees	\$6,340,068	92%
Program costs covered by General Fund	\$76,463	1%
Program costs covered by Federal Fund	\$479,212	7%
Fee last changed	11/08/2007	

How long will the proposed fee sustain the program?

DEQ expects that the annual revenue from the proposed fees would sustain the program through 2017.

Expected increase in ACDP fee revenue	\$1,280,000	20%
Min GF required by statute/rule to fund program	\$0	0%
Proposed fee allows General Fund replacement	\$0	0%
Effective date ¹	6/23/2014	

Transactions and revenue

The number of transactions in the tables below includes annual permitting fees assessed to all permit holders, initial permitting fees for new facilities and specific activity fees assessed when a facility modifies its permit.

	Number of transactions	Number of Fee Payers	Impact on revenue (+/-)	Total revenue (+/-)
Current - FY2014	2,770	2,600	\$1,280,000	\$7,700,000

Future¹ Budget Projections

	Number of transactions	Estimated Number of Fee Payers	Estimated Impact on revenue (+/-)	Total revenue (+/-)
FY2015	2,900	2,730	\$1,344,000	\$7,764,000
FY2016	3,050	2,870	\$1,411,000	\$7,831,000
2015-2017 Biennium		2,870	\$2,755,000	\$15,595,000

¹ Assumption: Number of business holding permits would increase by five percent each year.

Fee schedule

The following table shows the amount of the proposed annual fees. Initial permitting fees and specific activity fees, such as permit modification fees, would also increase by 20 percent and are available in the proposed rules. Initial permitting fees and specific activity fees contribute a relatively small portion of program revenue.

Annual Fees by Permit Category			
Permit Type	From	To	Increase
Basic	\$360	\$432	\$72
General			
Fee Class One	\$720	\$864	\$144
Fee Class Two	\$1,296	\$1,555	\$259
Fee Class Three	\$1,872	\$2,246	\$374
Fee Class Four	\$360	\$432	\$72
Fee Class Five	\$120	\$144	\$24
Fee Class Six	\$240	\$288	\$48
Simple			
Low Fee	\$1,920	\$2,304	\$384
High Fee	\$3,840	\$4,608	\$768
Standard	\$7,680	\$9,216	\$1,536
R1 - Registrations	\$240	\$288	\$48
R2 - Registrations	\$180	\$216	\$36
Attachments	\$120	\$144	\$24

The following table shows the amount of the reduced application fee for major greenhouse gas facilities. The existing application fee consists of four components. The proposed rules eliminate the fourth component. The remaining three components reflect the 20 percent increase applicable to all initial permitting fees and specific activity fees.

Application Fee for Greenhouse Gas New Source Review and Prevention of Significant Deterioration		
Components of the application fee	From	To
1. Complex Modification fee	\$12,000	\$14,400
2. Best Available Control Technology Analysis	\$21,600	\$25,920
3. Public Hearing	\$2,400	\$2,880
4. Modeling review	\$6,000	Not applicable
Total application fee	\$42,000	\$43,200

Links to supporting documents for proposed fees

Document title	Document location
Senate Bill 5520 (2013)	DEQ headquarters 811 SW 6 th Ave. Portland OR 97204
Senate Bill 5520 Budget Reports	DEQ headquarters

Fiscal and Economic Impact

An increase in air contaminant discharge permit fees would affect approximately 2,600 permit holders and registrants directly and increase program revenue by \$1,280,000.

The reduced permit application fee for greenhouse gas permits would affect any facility that applies for this type of permit in the future.

Greenhouse gas reporting fees would not change under the proposed rules and amending the low fee eligibility criteria has no fiscal and economic impact.

Statement of Cost of Compliance

1. State and federal agencies

Federal and state agencies hold approximately 25 air contaminant discharge permits. The proposed fees would affect these permit holders directly. Changes to fees could affect these agencies indirectly if businesses change the price of goods and services to offset any increased or decreased costs from paying a permit fee.

2. DEQ

DEQ has no facilities that require an air contaminant discharge permit. The proposed fee increases would affect DEQ directly by restoring 3.67 full-time equivalent positions and allow Oregon to provide requisite program services. Changes to fees could affect DEQ indirectly if businesses change the price of goods and services to offset any increased or decreased costs from paying a permit fee.

3. Local governments

Local governments hold approximately 15 air contaminant discharge permits and a permit fee increase that ranges from \$24 to \$1,536 would affect these permit holders directly. Changes to fees could affect local governments indirectly if businesses change the price of goods and services to offset any increased or decreased costs from paying a permit fee.

4. Public

The proposed rules would not affect the public directly. Changes to fees could affect the public indirectly if businesses change the price of goods and services to offset any increased or decreased costs from paying a permit fee.

5. Large businesses - businesses with more than 50 employees

Direct Impacts Approximately 1,200 large businesses hold air contaminant discharge permits and a fee increase would affect these permit holders directly. The proposed fee increase for the simple and standard permit, typical for these businesses, ranges from \$384 to \$1,536. The type of permit required for a facility determines the permit fees regardless of the number of employees.

DEQ estimates that approximately one to two large businesses will apply for greenhouse gas permits or modifications each year due solely to the greenhouse gas regulations. These businesses would save \$7,200 in permit application fees.

Indirect Impacts Changes to fees could affect businesses indirectly if other businesses change the price of goods and services to offset any increased or decreased costs from paying a permit fee.

6. Small businesses – businesses with 50 or fewer employees [ORS 183.336](#)

Many small businesses with 50 or fewer employees have an air contaminant discharge permit. Generally, facilities with less complex permits experience a smaller economic impact from fee increases than larger facilities with more complex permits.

Direct Impacts The proposed rules would increase fees by 20 percent and would increase from \$24 to \$374 per year for small businesses that must:

- Have a basic or general air contaminant discharge permit
- Register with DEQ in lieu of applying for a permit. Examples of these small businesses are dry cleaners and automotive body shops

Some small businesses hold permits that are more complex and could experience a fee increase as high as \$1,536 per year.

Indirect Impacts Changes to fees could affect small businesses if other businesses change the price of goods and services to offset any increased or decreased 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.

Assuming most businesses in the lower permit fee classes are small businesses, the proposed rules could affect approximately 1,400 small businesses.

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 do not impose new administrative activities different from what the affected businesses experience with their current permit.

c. Projected equipment, supplies, labor and increased administration

The proposed rules do not require additional equipment, supplies, labor or increased

required for small businesses to comply with the proposed rule.

administration different from what the affected businesses experience with their current permit or registration.

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

During development of Policy Package 111, DEQ worked with industry associations, including owners of dry cleaners, gasoline dispensing facilities, and other small business owner groups.

Documents relied on for fiscal and economic impact

Document title	Document location
Senate Bill 5520 (2013)	DEQ headquarters 811 SW 6 th Ave. Portland OR 97204
Senate Bill 5520 Budget Reports	DEQ headquarters

Advisory committee

DEQ did not convene an advisory committee because the 2013 Oregon Legislature considered and approved the approximate 20 percent fee increase.

Housing cost

To comply with [ORS 183.534](#), DEQ determined the proposed rules might 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.

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 rules are “in addition to federal requirements.”

The proposed rules restore services for operating the air contaminant discharge permit program. While there is a federal requirement for Oregon to pay for its Clean Air Act Title V operating permit program with permit fees, and some of those permit holders must also sometimes obtain air contaminant discharge permits, the majority of facilities holding air contaminant discharge permits are required to hold the permit under state law and not federal law.

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. While developing Policy Package 111 as part of DEQ's budget bill, Senate Bill 5520, DEQ considered a smaller annual fee adjustment rather than a periodic large adjustment such as the proposed 20 percent fee increase. DEQ was unable to explore this strategy fully before the 2013 Oregon Legislature budget process required the information.

Considering that the current law does not include a provision to adjust the air contaminant discharge permit fees using a price index and regulated parties have historically paid the majority of the costs for air contaminant discharge permit program, DEQ based the fee increases on the 2013 Oregon Legislature-approved Policy Package 111.

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 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 because the 2013 Oregon Legislature already considered and approved the fee increase.

EQC prior involvement

DEQ shares information about rulemaking with EQC in the monthly Director's Report. DEQ shared information with EQC in budget updates during the 2013 legislative session and through an informational item presented at the August 2013 EQC meeting. The commission adopted a temporary Air Contaminant Discharge Permit fee increase rule at its October 2013 meeting.

Public notice

DEQ provided Notice of Proposed Rulemaking with Hearing for this rulemaking March 17, 2014, by:

- Posting notice on the DEQ Rulemaking Web page
<http://www.oregon.gov/deq/RulesandRegulations/Pages/2014/ACDPFee.aspx>
- Email to Environmental Protection Agency, Region 10, Seattle
- Email to approximately 6,514 interested parties through GovDelivery including subscribers of the groups Rulemaking and Air Quality Permits
- Email to 1,409 representatives of permit holders and registrants
- U.S. Postal Service to representatives of permit holders and registrants not signed up for email notification
- Email to the following legislators as required under ORS 183.335:
 - Senator Chris Edwards, Co-Chair, Ways and Means Sub-Committee on Natural Resources
 - Representative Ben Unger, Co-Chair, Ways and Means Sub-Committee on Natural Resources
 - Senator Richard Devlin, Co-Chair, Ways and Means Sub-Committee
 - Representative Peter Buckley, Co-Chair, Ways and Means Sub-Committee

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

DEQ provided legal notice in the following newspapers:

- | | |
|------------------------------------|-----------------------------------|
| • <i>The Oregonian</i> | Publication date – March 19, 2014 |
| • <i>Daily Journal of Commerce</i> | Publication date – March 19, 2014 |

Stakeholder and public involvement

Public hearings and comment

DEQ held a public hearing April 15, 2014. DEQ received no public comments or testimony at the hearing. The summary of comments and DEQ responses section below addresses the public comments received during the public comment period. The commenter section below lists all people who provided comments on this proposal.

Presiding Officers' Record

Presiding Officer Report Date: April 16, 2014

Hearing

Location	DEQ Headquarters Office, Tenth Floor, Conference Room EQC A 811 SW Sixth Avenue, Portland OR 97204
Date	April 15, 2014
Time	Convened 5:30 p.m. Closed 6 p.m.
Presiding Officer	Carrie Ann Capp, Air Quality Planner

Carrie Ann Capp, the presiding officer, convened the hearing at 5:30 p.m. on April 15, 2014. No one attended the hearing. Capp closed the hearing at 6 p.m.

Close of public comment period

The comment period closed April 18, 2014, at 5 p.m.

Summary of comments and DEQ responses

For public comments received by the close of the public comment period, the following table organizes comments into four categories with cross references to the commenter number. DEQ's response follows the summary. Original comments are on file with DEQ.

DEQ has not changed to the proposed rules in response to the comments received.

1 Comment Support for the fee increases

- I fully support the fee increases which would allow the rehire of staff.
- I support the increases and would support even higher fees to bring down the amount of contaminants in the air.

DEQ received comments in this category from commenters 1 and 5 listed in the *Commenter* section below.

Response DEQ's proposal increases the fees only as needed to restore positions and maintain services in the permit program.

2 Comment Opposition to the fee increase for small businesses

- For a small owner-operated gas station like mine a 20 percent increase is very steep, considering the fact we cannot pass that cost along to the consumer easily in the price per gallon. Pass this cost onto the oil companies or the middle man, who can pass on cost directly so the retailer does not have to eat the cost. If this is the route then you should base the fee on throughput so the smaller station owners do not have to bear a larger percent of a burden than the larger station. A flat fixed fee increase across the board is unfair to small volume sellers on a percentage basis.
- Like most petroleum distributors I have been in the business a long time. I remember having to fill out the annual reports way back when the permit cost was \$120. For a period of time the department did away with permits, at least for a petroleum distributor. Then a few years back the DEQ brought the ACDP back at a price three times higher than it was previously.

It leaves little doubt in my mind that you brought the permits back as a revenue driver for your already overstaffed organization. Now you want to increase the fees after already having tripled them a few years back to add 3.67 full time positions. In my opinion, it is a complete waste of time and resources to require petroleum jobbers to obtain this permit to operate a service station or cardlock. Our emissions are so miniscule there is nothing to report on the annual reporting forms.

DEQ received comments in this category from commenter 2 and 4 listed in the *Commenter* section below.

Response A small businesses will usually have a Basic or General permit or a registration. Businesses holding those types of permits will see an increase in their annual fees in the range of \$24 to \$144. DEQ understands the proposed increases have a negative financial impact on businesses. Delays in DEQ's ability to provide services can also have a negative impact on businesses. The fees vary by facility type and range from \$120 for gas station general permits to \$7,680 for larger more complex facilities. Smaller gasoline dispensing facilities with a throughput of less than 120,000 gallons per year are exempt from needing a permit. This proposal increases the annual fees evenly across all air contaminant discharge permits.

DEQ recently cut three positions as a cost saving measure. The proposed fee increase prevents DEQ from losing an additional 3.67 positions and does not add any new positions.

3. **Comment** What is the effect of the 20 percent fee increase?

What is the projected increase state wide for these changes in dollars? (ie: how much are we paying for the 3.67 positions)

DEQ received one comment in this category from commenter 6 listed in the *Commenter* section below.

Response The revenue increase is approximately \$640,000 per year, which covers the inflation in program costs and prevents DEQ from losing an additional 3.67 positions.

4. **Comment** The greenhouse gas fee is not necessary.

I am troubled by further greenhouse emissions regulations and overview by DEQ. There is no evidence that man produced greenhouse gases are creating global warming. Why are you increasing funding to support your further oversight?

DEQ received one comment in this category from commenter 3 listed in the *Commenter* section below.

Response The proposed rules do not change greenhouse gas regulations. The proposed rules prevent an increase in the existing greenhouse gas fee.

Commenters

Comments received by close of public comment period

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

- | | | |
|---|---------------------------------|--|
| 1 | Commenter
Affiliation | Laquita Stec
Citizen

This commenter submitted comments under categories 2 and 3 in the <i>Summary of comments and DEQ responses</i> section above. |
| 2 | Commenter
Affiliation | Brian Earls
Highlander Motel & RV Park, dba Earl's Shell

This commenter submitted comments under category 1 in the <i>Summary of comments and DEQ responses</i> section above. |
| 3 | Commenter
Affiliation | Dennis Beetham
dbwestern

This commenter submitted comments under category 2 in the <i>Summary of comments and DEQ responses</i> section above. |
| 4 | Commenter
Affiliation | Peter Nelson
Marc Nelson Oil Products

This commenter submitted comments under category 2 in the <i>Summary of comments and DEQ responses</i> section above. |
| 5 | Commenter
Affiliation | Ann Becker
WC-CAN

This commenter submitted comments under category 2 in the <i>Summary of comments and DEQ responses</i> section above. |
| 6 | Commenter
Affiliation | Steve Johnston
Certain Teed Roofing

This commenter submitted comments under category 2 in the <i>Summary of comments and DEQ responses</i> 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 June 23, 2014. DEQ will apply the specific activity fees upon the effective date and invoice annual fees to affected parties in October 2014 with payment due in December 2014. 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:

- Adopt rules to implement legislatively approved fee changes. ORS 183.405 (5)(c)
- Amendments or repeal of a rule. ORS 183.405(4)

DEPARTMENT OF ENVIRONMENTAL QUALITY

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~~ according to 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 DEQ 9-2013(Temp), f. & cert. ef. 10-24-13 thru 4-22-14

DIVISION 216

AIR CONTAMINANT DISCHARGE PERMITS

340-216-0020

Applicability

This division applies to all sources referred to in Table 1 of ~~this rule~~ OAR 340-216-8010. 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 of OAR 340-216-8010 are subject to fees ~~as set forth~~ in Table 2 of OAR 340-216-8020.

(1) No person may construct, install, establish, develop or operate any air contaminant source ~~which is~~ referred to in Table 1 of ~~this rule~~ OAR 340-216-8010 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~~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~~ that 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: Table 1 previously in this rule is in OAR 340-216-8010. Table 2 previously in this rule is in OAR 340-216-8020.s referenced are not included in rule text.]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033; DEQ 125, f. & ef. 12-16-76; DEQ 20-1979, f. & ef. 6-29-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 13-1981, f. 5-6-81, ef. 7-1-81; DEQ 11-1983, f. & ef. 5-31-83; DEQ 3-1986, f. & ef. 2-12-86; DEQ 12-1987, f. & ef. 6-15-87; DEQ 27-1991, f. & cert. ef. 11-29-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0155; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 22-1994, f. & cert. ef. 10-4-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1720; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 7-2007, f. & cert. ef. 10-18-07; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 15-2008, f. & cert. ef. 12-31-08; DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 9-2009(Temp), f. 12-24-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10; DEQ 10-2010(Temp), f. 8-31-10, cert. ef. 9-1-10 thru 2-28-11; DEQ 12-2010, f. & cert. ef. 10-27-10; DEQ 1-2011, f. & cert. ef. 2-24-11; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11; DEQ 11-2011, f. & cert. ef. 7-21-11; DEQ 13-2011, f. & cert. ef. 7-21-11; DEQ 14-2011, f. & cert. ef. 7-21-11; DEQ 4-2013, f. & cert. ef. 3-27-13; DEQ 9-2013(Temp), f. & cert. ef. 10-24-13 thru 4-22-14

340-216-0025

Types of Permits

(1) Construction ACDP:

(a) A Construction ACDP may be used for approval of Type 3 changes specified in OAR 340-210-0220 at a source subject to the ACDP permit requirements in this division.

(b) A Construction ACDP is required for Type 3 changes specified in OAR 340-210-0225 at sources subject to the Oregon Title V Operating Permit requirements.

(2) **General ACDP.** A General ACDP is for a category of sources for which individual permits are unnecessary in order to protect the environment. An owner or operator of a source may be assigned to a General ACDP if the Department has issued a General ACDP for the source category:

(a) The source meets the qualifications specified in the General ACDP;

(b) The Department determines that the source has not had ongoing, reoccurring, or serious compliance problems; and

(c) The Department determines that a General ACDP would appropriately regulate the source.

(3) **Short Term Activity ACDP.** A Short Term Activity ACDP is a letter permit that authorizes the activity and includes any conditions placed upon the method or methods of operation of the activity. The Department may issue a Short Term Activity ACDP for unexpected or emergency activities, operations, or emissions.

(4) **Basic ACDP.** A Basic ACDP is a permit that authorizes the regulated source to operate in conformance with the rules contained in OAR 340 divisions 200 to 268.

(a) Owners and operators of sources and activities listed in Table 1, Part A of OAR 340-216-~~0020~~8010 must at a

minimum obtain a Basic ACDP.

(b) Any owner or operator of a source required to obtain a Basic ACDP may obtain either a Simple or Standard ACDP.

(5) **Simple ACDP.** A Simple ACDP is a permit that contains:

(a) All relevant applicable requirements for source operation, including general ACDP conditions for incorporating generally applicable requirements;

(b) Generic PSELs for all pollutants emitted at more than the de minimis level ~~in accordance with~~ according to 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.

(6) **Standard ACDP:**

(a) A Standard ACDP is a permit that contains:

(A) All applicable requirements, including general ACDP conditions for incorporating generally applicable requirements;

(B) Source specific PSELs or Generic PSELs, whichever are applicable, as specified in 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.

(b) All owners and operators of sources and activities listed in Table 1, Part C of OAR 340-216-~~0020-8010~~ must obtain a Standard ACDP.

(c) Owners or operators of sources and activities listed in Table 1, Part B of OAR 340-216-~~0020-8010~~ ~~which that~~ do not qualify for a General ACDP or Simple ACDP must obtain a Standard ACDP.

(d) Any owner or operator of a source not required to obtain a Standard ACDP may obtain a Standard ACDP.

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 available from the agency.]~~

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468.020 & 468A.025

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033; DEQ 125, f. & ef. 12-16-76; DEQ 20-1979, f. & ef. 6-29-79; DEQ 23-1980, f. & ef. 9-26-80; DEQ 13-1981, f. 5-6-81, ef. 7-1-81; DEQ 11-1983, f. & ef. 5-31-83; DEQ 3-1986, f. & ef. 2-12-86; DEQ 12-1987, f.

& ef. 6-15-87; DEQ 27-1991, f. & cert. ef. 11-29-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0155; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 22-1994, f. & cert. ef. 10-4-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 19-1996, f. & cert. ef. 9-24-96; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1720; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

340-216-0040

Application Requirements

(1) New Permits. Except for Short Term Activity ACDPs, any person required to obtain a new ACDP must provide the following general information, as applicable, using forms provided by the Department in addition to any other information required for a specific permit type:

- (a) Identifying information, including the name of the company, the mailing address, the facility address, and the nature of business (Standard Industrial Classification (SIC) code);
 - (b) The name and phone number of a local person responsible for compliance with the permit;
 - (c) The name of a person authorized to receive requests for data and information;
 - (d) A description of the production processes and related flow chart;
 - (e) A plot plan showing the location and height of air contaminant sources. The plot plan must also indicate the nearest residential or commercial property;
 - (f) The type and quantity of fuels used;
 - (g) An estimate of the amount and type of each air contaminant emitted by the source in terms of hourly, daily, or monthly and yearly rates, showing calculation procedures;
 - (h) Any information on pollution prevention measures and cross-media impacts the applicant wants the Department to consider in determining applicable control requirements and evaluating compliance methods;
 - (i) Estimated efficiency of air pollution control equipment under present or anticipated operating conditions;
 - (j) Where the operation or maintenance of air pollution control equipment and emission reduction processes can be adjusted or varied from the highest reasonable efficiency and effectiveness, information necessary for the Department to establish operational and maintenance requirements ~~in accordance with~~ OAR 340-226-0120(1) and (2);
 - (k) A Land Use Compatibility Statement signed by a local (city or county) planner either approving or disapproving construction or modification of the source, if required by the local planning agency; and
 - (l) Any other information requested by the Department.
- (2) Renewal Permits. Except for Short Term Activity ACDPs, any person required to renew an existing permit must submit the information identified in section (1) using forms provided by the Department, unless there are no significant changes to the permit. If there are significant changes, the applicant must provide the information identified in section (1) only for those changes. Where there are no significant changes to the permit, the applicant

may use a streamlined permit renewal application process by providing the following information:

- (a) Identifying information, including the name of the company, the mailing address, the facility address, and the nature of business (Standard Industrial Classification (SIC) code) using a form provided by the Department; and
- (b) A marked up copy of the previous permit indicating minor changes along with an explanation for each requested change.
- (3) Permit Modifications. For Simple and Standard ACDP modifications, the applicant must provide the information in section (1) relevant to the requested changes to the permit and a list of any new requirements applicable to those changes.
- (4) Any owner or operator who fails to submit any relevant facts or who has submitted incorrect information in a permit application must, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.
- (5) The department must receive the application at least 60 days before a permit or modified permit is needed.
- (6) The application must be completed in full and signed by the applicant or the applicant's legally authorized representative.
- (7) Two copies of the application are required, unless otherwise requested by the Department. At least one of the copies must be a paper copy, but the others may be in any other format, including electronic copies, upon approval by the Department.
- (8) A copy of NSR permit applications and supplemental information must also be submitted directly to the EPA.
- (9) The name of the applicant must be the legal name of the facility or the owner's agent or the lessee responsible for the operation and maintenance of the facility. The legal name must be registered with the Secretary of State Corporations Division.
- (10) All applications must include the appropriate fees as specified in Table 2 ~~of in~~ OAR 340-216-~~0020~~8020.
- (11) Applications that are obviously incomplete, unsigned, improperly signed, or lacking the required exhibits or fees will be rejected by the Department and returned to the applicant for completion.
- (12) Within 15 days after receiving the application, the Department will preliminarily review the application to determine the adequacy of the information submitted:
 - (a) If the Department determines that additional information is needed, the Department will promptly ask the applicant for the needed information. The application will not be considered complete for processing until the requested information is received. The application will be considered withdrawn if the applicant fails to submit the requested information within 90 days of the request;
 - (b) If, in the opinion of the Department, additional measures are necessary to gather facts regarding the application, the Department will notify the applicant that such measures will be instituted along with the timetable and procedures to be followed. The application will not be considered complete for processing until the necessary additional fact-finding measures are completed. When the information in the application is deemed adequate for processing, the Department will so notify the applicant .

(13) If at any time while processing the application, the Department determines that additional information is needed, the Department will promptly ask the applicant for the needed information. The application will not be considered complete for processing until the requested information is received. The application will be considered withdrawn if the applicant fails to submit the requested information within 90 days of the request.

(14) If, upon review of an application, the Department determines that a permit is not required, the Department will so notify the applicant in writing. Such notification is a final action by the Department on the application.

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.

~~(ED. NOTE: Tables referenced are available from the agency.)~~

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 42, f. 4-5-72, ef. 4-15-72; DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033; DEQ 20-1979, f. & ef. 6-29-79; DEQ 13-1988, f. & cert. ef. 6-17-88; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0175; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1770; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-014-0020 & 340-014-0030; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

340-216-0052

Construction ACDP

(1) Purpose. A Construction ACDP is a permit for approval of Type 3 construction or modification changes as specified in OAR 340-210-0220. The Construction ACDP includes requirements for the construction or modification of stationary sources or air pollution control equipment and does not by itself provide authorization to operate the new construction or modification. A new or modified Standard ACDP or Oregon Title V Operating Permit is required before operation of the new construction or modification. A Construction ACDP may be used for the following situations:

(a) For complex construction or modification projects that require an extended period of time to construct, the Construction ACDP may provide construction approval faster than issuance of a Standard ACDP or modified Standard ACDP because the operating requirements would not need to be included in the permit.

(b) For Oregon Title V Operating Permit sources, the Construction ACDP may include the requirements of OAR 340-218-0050 and follow the external review procedures in 340-218-0210 and 340-218-0230 so that the requirements may later be incorporated into the Oregon Title V Operating Permit by an administrative amendment. If the applicant elects to incorporate the Construction ACDP by administrative amendment, all of the application submittal, permit content, and permit issuance requirements of OAR 340 division 218 must be met for the Construction ACDP

(2) Application requirements. Any person requesting a Construction ACDP must:

(a) Submit an application ~~in accordance with~~ according to OAR 340-216-0040 and provide the information specified in 340-216-0040(1) as it relates to the proposed new construction or modification; and

(b) Provide a list of any applicable requirements related to the new construction or modification.

- (3) Fees. Applicants for a Construction ACDP must pay the fees ~~set forth~~ in Table 2 of OAR 340-216-~~0020~~8020.
- (4) Permit content. A Construction ACDP must include at least the following:
- (a) A requirement that construction must commence within 18 months after the permit is issued;
 - (b) A requirement to construct ~~in accordance with~~according to approved plans;
 - (c) A requirement to comply with all applicable requirements;
 - (d) Emission limits for affected stationary sources;
 - (e) Performance standards for affected stationary sources and air pollution control equipment;
 - (f) Performance test requirements;
 - (g) Monitoring requirements, if specialized equipment is required (e.g., continuous monitoring systems);
 - (h) Notification and reporting requirements (construction status reports, startup dates, source test plans, CEMS performance specification testing plans, etc.);
 - (i) General ACDP conditions for incorporating generally applicable requirements;
 - (j) A requirement to modify the operating permit before commencing operation of the new construction or modification;
 - (k) A permit expiration date of no more than 5 years; and
 - (l) Oregon Title V Permit requirements as specified in OAR 340-218-0050, if the applicant requests the external review procedures in OAR 340-218-0210 and 340-218-0230.
- (5) Permit issuance procedures:
- (a) A Construction ACDP requires public notice ~~in accordance with~~according to OAR 340 division 209 for Category III permit actions.
 - (b) For sources subject to the Oregon Title V Operating Permit program, the applicant may ask for the external review procedures in OAR 340-218-0210 and 340-218-0230 in addition to the requirements of OAR 340 division 209 to allow the Construction ACDP to be incorporated into the Oregon Title V Operating Permit later by an administrative amendment provided the requirements of (1)(b) are met.
 - (c) Issuance of a modified Construction ACDP requires one of the following, as applicable:
 - (A) Non-technical modifications and non-NSR Basic and Simple technical modifications require public notice ~~in accordance with~~according to OAR 340 division 209 for Category I permit actions.
 - (B) Non-NSR/PSD Moderate and Complex technical modifications require public notice ~~in accordance with~~according to 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 5-2011, f. 4-29-11, cert. ef. 5-1-11

340-216-0054

Short Term Activity ACDPs

(1) Application requirements. Any person requesting a Short Term Activity ACDP must apply in writing, fully describing the emergency and the proposed activities, operations, and emissions. The application must include the fees specified in section (2) of this rule.

(2) Fees. Applicants for a Short Term Activity ACDP must pay the fees ~~set forth~~ in Table 2 of OAR 340-216-00208020.

(3) Permit content.

(a) This permit includes conditions that ensure adequate protection of property and preservation of public health, welfare, and resources.

(b) A Short Term Activity ACDP does not include a PSEL for any air contaminants discharged as a result of the permitted activity.

(c) A Short Term Activity ACDP automatically terminates 60 days from the date of issuance and may not be renewed.

(d) A Short Term Activity ACDPs will be properly conditioned to ensure adequate protection of property and preservation of public health, welfare and resources.

(4) Permit issuance procedures. A Short Term Activity ACDP requires public notice ~~in accordance with~~ according to OAR 340 division 209 for Category I permit actions.

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Hist.: DEQ 42, f. 4-5-72, ef. 4-15-72; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 22-1996, f. & cert. ef. 10-22-96; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01, Renumbered from 340-014-0050; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

340-216-0056

Basic ACDPs

(1) Application requirements. Any person requesting a Basic ACDP must submit an application ~~in accordance with~~ according to OAR 340-216-0040 and provide the information specified in OAR 340-216-0040(1).

(2) Fees. Applicants for a new Basic ACDP must pay the fees ~~set forth~~ in Table 2 of OAR 340-216-00208020.

(3) Permit content:

- (a) A Basic ACDP contains only the most significant and relevant rules applicable to the source;
 - (b) A Basic ACDP does not contain a PSEL;
 - (c) A Basic ACDP requires a simplified annual report be submitted to the Department; and
 - (d) A Basic ACDP may be issued for a period not to exceed ten years.
- (4) Permit issuance procedures. A Basic ACDP requires public notice ~~in accordance with~~according to OAR 340 division 209 for Category I 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 8-2007, f. & cert. ef. 11-8-07; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

340-216-0060

General Air Contaminant Discharge Permits

(1) Applicability.

- (a) DEQ may issue a General ACDP 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;
 - (C) The emission limitations, monitoring, recordkeeping, reporting and other enforceable conditions are the same for all operations covered by the General ACDP; and
 - (D) The pollutants emitted are of the same type for all covered operations.

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

- (A) All relevant requirements for the operations covered by the General ACDP, 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~~according to OAR 340, division 222;
- (C) Testing, monitoring, recordkeeping, and reporting requirements necessary to ensure compliance with the PSEL and other applicable emissions limits and standards; and
- (D) A permit expiration date not to exceed 10 years from the date of issuance.

(c) Permit issuance procedures: A new General ACDP requires public notice and opportunity for comment ~~in accordance with~~according to OAR 340 division 209 for Category III permit actions. A reissued General ACDP or a

modification to a General ACDP requires public notice and opportunity for comment ~~in accordance with~~according to OAR 340 division 209 for Category II permit actions. All General ACDPs are on file and available for review at DEQ's headquarters.

(2) Source assignment:

(a) Application requirements. Any person requesting that a source be assigned to a General ACDP must submit a written application ~~in accordance with~~according to OAR 340-216-0040 that includes the information in OAR 340-216-0040(1), specifies the General ACDP source category, and shows that the source qualifies for the General ACDP.

(b) Fees. Applicants must pay the fees ~~set forth~~ in Table 2 of OAR 340-216-~~00208020~~00208020. The fee class for each General ACDP is as follows:

- (A) Hard chrome platers — Fee Class Three;
- (B) Decorative chrome platers — Fee Class Two;
- (C) Halogenated solvent degreasers — batch cold, batch vapor, and in-line — Fee Class Two;
- (D) Perchloroethylene dry cleaners — Fee Class Six;
- (E) Asphalt plants — Fee Class Three;
- (F) Rock crushers — Fee Class Two;
- (G) Ready-mix concrete — Fee Class One;
- (H) Sawmills, planing mills, millwork, plywood manufacturing and veneer drying — Fee Class Three;
- (I) Boilers — Fee Class Two;
- (J) Crematories — Fee Class One;
- (K) Grain elevators — Fee Class One;
- (L) Prepared feeds, flour, and cereal — Fee Class One;
- (M) Seed cleaning — Fee Class One;
- (N) Coffee roasters — Fee Class One;
- (O) Bulk gasoline plants — Fee Class One;
- (P) Electric power generators — Fee Class Two;
- (Q) Clay ceramics — Fee Class One;
- (R) Hospital sterilizers — Fee Class Four;

- (S) Secondary nonferrous metals — Fee Class One;
- (T) Gasoline dispensing facilities — stage I — Fee Class Five;
- (U) Gasoline dispensing facilities — stage II — Fee Class Four;
- (V) Wood preserving — Fee Class Four;
- (W) Metal fabrication and finishing — with two or more of the following operations — Fee Class Two;
 - (i) Dry abrasive blasting performed in a vented enclosure or of objects greater than 8 feet (2.4 meters) in any one dimension that uses materials that contain MFHAP or has the potential to emit MFHAP;
 - (ii) Spray-applied painting operation using MFHAP containing paints;
 - (iii) Welding operation that uses materials that contain MFHAP or has the potential to emit MFHAP and uses 2,000 pounds or more per year of MFHAP containing welding wire and rod (calculated on a rolling 12-month basis);
- (X) Metal fabrication and finishing — with only one of the operations listed in subparagraphs (2)(b)(Y)(i) through (iii) of this rule — Fee Class One;
- (Y) Metal fabrication and finishing — with none of the operations listed in subparagraphs (2)(b)(Y)(i) through (iii) of this rule — Fee Class Four;
- (Z) Plating and polishing — Fee Class One;
- (AA) Surface coating operations — Fee Class One;
- (BB) Paint stripping — Fee Class One;
- (CC) Aluminum, copper, and nonferrous foundries — Fee Class Two;
- (DD) Paints and allied products manufacturing — Fee Class Two;
- (EE) Any General ACDP not listed above — Fee Class One.
- (c) Source assignment procedures:
 - (A) Assignment of a source to a General ACDP is a Category I permit action and is subject to the Category I public notice requirements ~~in accordance with~~ according to OAR 340, division 209.
 - (B) A person is not a permittee under the General ACDP until DEQ assigns the General ACDP to the person.
 - (C) Assignments to General ACDPs and attachment(s) terminate when the General ACDP or attachment expires or is modified, terminated or revoked.
 - (D) Once a source has been assigned to a General ACDP, if the assigned General ACDP does not cover all requirements applicable to the source, excluding any federal requirements not adopted by the EQC, the other applicable requirements must be covered by assignment to one or more General ACDP Attachments ~~in accordance with~~ according to OAR 340-216-0062, otherwise the source must obtain a Simple or Standard ACDP.

(E) A source requesting to be assigned to a General ACDP Attachment, ~~in accordance with~~ according to OAR 340-216-0062, for a source category in a higher annual fee class than the General ACDP the source is currently assigned to, must be reassigned to the General ACDP for the source category in the higher annual fee class.

(3) DEQ Initiated Modification. If DEQ determines that the conditions have changed such that a General ACDP for a category needs to be modified, DEQ may issue a new General ACDP for that category and assign all existing General ACDP permit holders to the new General ACDP.

(4) Rescission. In addition to OAR 340-216-0082 (Termination or Revocation of an ACDP), DEQ may rescind an individual source's assignment to a General ACDP if the source no longer meets the requirements of this rule or the conditions of the permit, including, but not limited to a source having an ongoing, reoccurring or serious compliance problem. Upon rescinding a source's assignment to a General ACDP DEQ will place the source on a Simple or Standard ACDP. DEQ may also revoke a General ACDP or attachment or both if conditions, standards or rules have changed so the permit or attachment no longer meets the requirements of this rule.

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.

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

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468.020 & 468A.025

Hist.: DEQ 14-1998, f. & cert. ef. 9-14-98; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1725; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 10-2001, f. & cert. ef. 8-30-01; DEQ 4-2002, f. & cert. ef. 3-14-02; DEQ 2-2006, f. & cert. ef. 3-14-06; DEQ 8-2007, f. & cert. ef. 11-8-07; DEQ 15-2008, f. & cert. ef. 12-31-08; 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

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~~according to 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~~according to 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 \$~~120~~144.00 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~~according to 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~~according to 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~~according to 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 DEQ 9-2013(Temp), f. & cert. ef. 10-24-13 thru 4-22-14

340-216-0064

Simple ACDP

(1) Applicability.

(a) Sources and activities listed in Table 1, Part B of OAR 340-216-~~00208010~~ 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~~ according to OAR 340-216-0040.

(3) Fees. Applicants for a new or modified Simple ACDP must pay the fees ~~set forth~~ in Table 2 of OAR 340-216-~~00208020~~. 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 in~~ Table 1, Part B (category 27. Electric Power Generation, may be included with any category listed below) of OAR 340-216-~~00208010~~:

(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-~~00208010~~ ~~which that~~ would have actual emissions, if the source were to operate uncontrolled, of 5 or more tons a year of direct PM_{2.5} or PM₁₀ if located in a PM_{2.5} or PM₁₀ 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 ~~calendar year~~^{12 months} immediately preceding the invoice date, and ~~future-~~ projected emissions ~~for the current calendar year~~ are less than 5 tons/yr. PM₁₀ in a PM₁₀ 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-~~00208010~~) 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-~~00208020~~. Late fees start upon issuance of the initial invoice. In this case, DEQ will issue a new invoice specifying applicable fees.

(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~~^{according to} 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~~according to 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~~according to 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~~according to 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 DEQ 9-2013(Temp), f. & cert. ef. 10-24-13 thru 4-22-14

340-216-0066

Standard ACDPs

(1) Application requirements. Any person requesting a new, modified, or renewed Standard ACDP must submit an application ~~in accordance with~~according to OAR 340-216-0040 and include the following additional information as applicable:

(a) For new or modified Standard ACDPs that are not subject to NSR (OAR 340 division 224) but have emissions increases above the significant emissions rate, the application must include an analysis of the air quality and visibility (federal major sources only) impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts.

(b) For new or modified Standard ACDPs that are subject to NSR (OAR 340 division 224), the application must include the following additional information as applicable:

(A) A detailed description of the air pollution control equipment and emission reductions processes ~~that which~~ are planned for the source or modification, and any other information necessary to determine that BACT or LAER technology, whichever is applicable, would be applied;

(B) An analysis of the air quality and visibility (federal major sources only) impact of the source or modification, including meteorological and topographical data, specific details of models used, and other information necessary to estimate air quality impacts; and

(C) An analysis of the air quality and visibility (federal major sources only) impacts, and the nature and extent of all commercial, residential, industrial, and other source emission growth, which has occurred since January 1, 1978, in the area the source or modification would affect.

(2) Fees. Applicants for a Standard ACDP must pay the fees ~~set forth~~ in Table 2 of OAR 340-216-00208020.

(3) Permit content. A Standard ACDP is a permit that contains:

- (a) All applicable requirements, including general ACDP conditions for incorporating generally applicable requirements, but excluding any federal requirements not adopted by the EQC;
 - (b) Source specific PSELs or Generic PSELs, whichever are applicable, as specified in 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.
- (4) Permit issuance procedures.

(a) Issuance of a new or renewed Standard ACDP requires public notice as follows:

(A) For non-NSR permit actions, issuance of a new or renewed Standard ACDP requires public notice ~~in accordance with~~according to OAR 340 division 209 for Category III permit actions for any increase in allowed emissions, or Category II permit actions if no emissions increase is allowed.

(B) For NSR permit actions, issuance of a new Standard ACDP requires public notice ~~in accordance with~~according to OAR 340 division 209 for Category IV permit actions.

(b) Issuance of a modified Standard ACDP requires one of the following, as applicable:

(A) Non-technical modifications and non-NSR Basic and Simple technical modifications require public notice ~~in accordance with~~according to OAR 340 division 209 for Category I permit actions.

(B) Non-NSR/PSD Moderate and Complex technical modifications require public notice ~~in accordance with~~according to OAR 340 division 209 for Category II permit actions if no increase in allowed emissions, or Category III permit actions if an increase in emissions is allowed.

(C) NSR/PSD modifications require public notice ~~in accordance with~~according to OAR 340 division 209 for Category IV 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 5-2011, f. 4-29-11, cert. ef. 5-1-11; DEQ 4-2013, f. & cert. ef. 3-27-13

340-216-0070

Permitting Multiple Sources at a Single Adjacent or Contiguous Site

A single or contiguous site containing activities or processes that are covered by more than one General ACDP, or a source that contains processes or activities listed in more than one ~~Part-part~~ of Table 1, Part A to Part C ~~of~~, OAR 340-216-~~00298010~~ may obtain a Standard ACDP.

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.

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

Stat. Auth.: ORS 468 & 468A

Stats. Implemented: ORS 468 & 468A

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033, DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0160; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1730; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

340-216-0090

Sources Subject to ACDPs and Fees

All air contaminant discharge sources listed in Table 1 of OAR 340-216-~~00208010~~ must obtain a permit from the Department and are subject to fees ~~as set forth~~ in Table 2 of OAR 340-216-~~00208020~~.

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.

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

Stat. Auth.: ORS 468.020 & 468A.040

Stats. Implemented: ORS 468.065

Hist.: DEQ 47, f. 8-31-72, ef. 9-15-72; DEQ 63, f. 12-20-73, ef. 1-11-74; DEQ 107, f. & ef. 1-6-76; Renumbered from 340-020-0033.12; DEQ 125, f. & ef. 12-16-76; DEQ 20-1979, f. & ef. 6-29-79; DEQ 11-1983, f. & ef. 5-31-83; DEQ 6-1986, f. & ef. 3-26-86; DEQ 12-1987, f. & ef. 6-15-87; DEQ 17-1990, f. & cert. ef. 5-25-90; DEQ 27-1991, f. & cert. ef. 11-29-91; DEQ 4-1993, f. & cert. ef. 3-10-93; DEQ 12-1993, f. & cert. ef. 9-24-93, Renumbered from 340-020-0165; DEQ 19-1993, f. & cert. ef. 11-4-93; DEQ 20-1993(Temp), f. & cert. ef. 11-4-93; DEQ 13-1994, f. & cert. ef. 5-19-94; DEQ 21-1994, f. & cert. ef. 10-14-94; DEQ 22-1994, f. & cert. ef. 10-14-94; DEQ 22-1995, f. & cert. ef. 10-6-95; DEQ 18-1997, f. 8-27-97, cert. ef. 10-1-97; DEQ 7-1998, f. & cert. ef. 5-5-98; DEQ 12-1998, f. & cert. ef. 6-30-98; DEQ 14-1998, f. & cert. ef. 9-14-98; DEQ 10-1999, f. & cert. ef. 7-1-99; DEQ 14-1999, f. & cert. ef. 10-14-99, Renumbered from 340-028-1750; DEQ 8-2000, f. & cert. ef. 6-6-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 5-2011, f. 4-29-11, cert. ef. 5-1-11

OAR 340-216-8010

Table 1 – Activities and Sources

Part A: Activities and Sources

The following commercial and industrial sources must obtain a Basic ACDP under the procedures ~~set forth~~ in OAR 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.¹
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~~****~~)² 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).

¹ Portland AQMA only

² “back-up” means less than 10,000 gallons of fuel per year

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~~ OAR 340-216-0060;
- a Simple ACDP under the procedures ~~set forth in~~ OAR 340-216-0064; or
- a Standard ACDP under the procedures ~~set forth in~~ OAR 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 Coating²
17. Cement Manufacturing
18. ~~*~~Cereal Preparations and Associated Grain Elevators 10,000 or more tons/yr. throughput¹
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. Ethylene - 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 2
31. ~~***~~ Flexographic or Rotogravure Printing subject to RACT 2
32. ~~*~~ Flour, Blended and/or Prepared and Associated Grain Elevators 10,000 or more tons/yr. throughput 1
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 ~~*****~~ 3
36. Glass and Glass Container Manufacturing
37. ~~*~~ Grain Elevators used for intermediate storage 10,000 or more tons/yr. throughput 1
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 2 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 Coating²
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. throughput¹
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 RACT²
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~~that would emit significant malodorous emissions
85. All Other Sources not listed herein ~~which~~that 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

¹ Applies only to Special Control Areas

² Portland AQMA, Medford-Ashland AQMA or Salem SKATS only

³ “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

Part C: ~~Activities and Sources~~

The following sources must obtain a Standard ACDP under the procedures ~~set forth~~ in OAR 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~~that 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 CO₂e 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~~

[ED. NOTE: [Click here for PDF copy of table\(s\).](#)]

[Stat. Auth.: ORS 468.020](#)


[Stats. Implemented: ORS 468A](#)

Note: This a clarifying note that Table 1 was previously in OAR 340-216-0020. This note will not become part of the OAR 340-216-8010.

OAR 340-216-8020

Table 2 – Air Contaminant Discharge Permits

Sources referred to in Table 1 of OAR 340-216-8010 are subject to air contaminant discharge permit fees in Table 2.

	<p>Oregon Department of Environmental Quality</p> <p>Table 2 – 340-216-8020</p> <p>Air Contaminant Discharge Permits</p>
---	---

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

a. Short Term Activity ACDP	\$ 3,000 <u>3,600</u> .00
b. Basic ACDP	\$ 120 <u>144</u> .00
c. Assignment to General ACDP ¹	\$ 1,200 <u>1,440</u> .00*
d. Simple ACDP	\$ 6,000 <u>7,200</u> .00
e. Construction ACDP	\$ 9,600 <u>11,520</u> .00
f. Standard ACDP	\$ 12,000 <u>14,400</u> .00
g. Standard ACDP (PSD/NSR)	\$ 42,000 <u>50,400</u> .00
h. Standard ACDP (PSD for GHG only) ²	<u>\$43,200.00</u>
<p>1. *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.</p> <p>2. <u>This fee applies to a source that is subject to PSD for greenhouse gases only. If the source is also subject to PSD/NSR for other pollutants, the fee in g. applies.</u></p>	

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

a. Short Term Activity ACDP		\$NA
b. Basic ACDP		\$ 360 <u>432</u> .00
c. General ACDP	(A) Fee Class One	\$ 720 <u>864</u> .00
	(B) Fee Class Two	\$ 1,296 <u>1,555</u> .00
	(C) Fee Class Three	\$ 1,872 <u>2,246</u> .00
	(D) Fee Class Four	\$ 360 <u>432</u> .00
	(E) Fee Class Five	\$ 120 <u>144</u> .00
	(F) Fee Class Six	\$ 240 <u>288</u> .00
d. Simple ACDP	(A) Low Fee	\$ 1,920 <u>2,304</u> .00
	(B) High Fee	\$ 3,840 <u>4,608</u> .00

e. Standard ACDP		\$ 7,680 <u>9,216</u> .00
f. Greenhouse Gas Reporting, as required by OAR 340, Division 215		15 <u>12.5</u> % of the applicable annual fee in Part 2
<u>1. *DEQ may extend</u> The payment due date for dry cleaners or gasoline dispensing facilities may be extended by the Department until March 1 st .		

Part 3. Specific Activity Fees:

a. Non-Technical Permit Modification ¹	\$ 360 <u>432</u> .00
b. Non-PSD/NSR Basic Technical Permit Modification ² (2)	\$ 360 <u>432</u> .00
c. Non-PSD/NSR Simple Technical Permit Modification ³	\$ 1,200 <u>1,440</u> .00
d. Non-PSD/NSR Moderate Technical Permit Modification ⁴	\$ 6,000 <u>7,200</u> .00
e. Non-PSD/NSR Complex Technical Permit Modification ⁵	\$ 12,000 <u>14,400</u> .00
f. PSD/NSR <u>Permit</u> Modification	\$ 42,000 <u>50,400</u> .00
g. Modeling Review (outside PSD/NSR)	\$ 6,000 <u>7,200</u> .00
h. Public Hearing at Source's Request	\$ 2,400 <u>2,880</u> .00
i. State MACT Determination	\$ 6,000 <u>7,200</u> .00
j. Compliance Order Monitoring ⁶	\$ 120 <u>144</u> .00/month
<u>k. GHG PSD Permit Modification</u> ⁷	<u>\$43,200.00</u>

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.
7. This fee applies to a source that is subject to PSD for greenhouse gases only. If the source is also subject to PSD/NSR for other pollutants, the fee in f. applies.

Part 4. Late Fees:

- a. 8-30 days late 5%
- b. 31-60 days late 10%
- c. 61 or more days late 20%

[ED. NOTE: Click here for PDF copy of table(s).]

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

Note: This a clarifying note that Table 2 was previously in OAR 340-216-0020. This note will not become part of the OAR 340-216-8020.