



# Oregon Department of Environmental Quality

**Oct. 16-17, 2013**

## Oregon Environmental Quality Commission meeting Temporary rulemaking, Action item: E

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

#### **DEQ recommendation to the EQC**

DEQ recommends that the Environmental Quality Commission:

Determine that the increased fees in the proposed TEMPORARY rules, as presented in Attachment A, are necessary to cover the reasonable indirect and direct costs of implementing Oregon's air contaminant discharge permit program; and

Adopt the proposed TEMPORARY rules in Attachment A as part of chapter 340 of the Oregon Administrative Rules to be effective upon filing with the Secretary of State for 180 days.

#### **Statement of need and justification** ORS 183.335(5)

##### Short summary

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

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

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

The proposed rule amendments also revise the greenhouse gas reporting fees from 15 percent to 12.5 percent of the permit fee. DEQ considers this a technical correction to the greenhouse gas reporting fee. Greenhouse gas reporting is a separate program from air contaminant discharge permitting, but the greenhouse gas reporting fees are based on the permit fees. If the greenhouse

gas reporting fees are not amended, facilities holding air contaminant discharge permits will inadvertently pay higher greenhouse gas reporting fees as a result of the proposed fee increase.

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

## Background

Oregon's air contaminant discharge permit program contributes to the prevention of air pollution and helps reduce the number of unhealthy air days and the risks from air toxics by reducing pollution through permit requirements and preventing pollution through technical assistance. The program is part of Oregon's federally approved State Implementation Plan to meet national air quality standards.

Air contaminant discharge permits help ensure that new sources of air pollution install controls such as afterburners and vapor degreasers needed to protect air quality and that existing pollution sources are in compliance with state and federal emissions standards. The program also administers tighter federal health standards, new air toxics requirements and other regulations.

The program is funded by a combination of permit fees, state General Fund and federal funds. The amount of General and federal funds available for the program have declined since the 1990s and fees now account for 92 percent of program expenditures. Permit fees were last increased by 20 percent in 2007 with the expectation that the fee increase would provide sufficient funding until 2011. Due to extensive program streamlining implemented in the last decade and other factors, DEQ has been able to delay a fee increase for two years longer. DEQ cut three positions permanently in the budget because of permitting process improvements. No additional reductions are possible without reducing essential program functions and services.

Fees help pay for permitting, 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.

## Consequences of not taking immediate action

DEQ determined that failure to amend the proposed rules would require DEQ to reduce staffing from the current 33 full-time equivalent positions to 26 full-time equivalent positions for the 2013-2015 biennium. At this level, DEQ would have to cut program functions and services such as permitting, facility inspections and complaint response.

DEQ's inability to process air contaminant discharge permits in a timely manner could create an obstacle to future economic development, especially for new facilities and for existing facilities modifying their operations.

DEQ must issue air contaminant discharge permit invoices as scheduled in October 2013. Failure to amend the proposed rules through a temporary rulemaking would require DEQ to issue a supplemental billing for the amount of the fee increases after permanent rule adoption in 2014. A supplemental billing to implement legislatively approved fees would be an extraneous use of DEQ resources.

Greenhouse gas reporting is a separate program from air contaminant discharge permitting, but the greenhouse gas reporting fees are based on the permit fees. If the greenhouse gas reporting fees are not amended from 15 percent to 12.5 percent of the air contaminant discharge permit fee, facilities will pay higher greenhouse gas reporting fees as a result of the fee increase.

If the fee rules for simple permits are not amended, about 25 facilities holding simple permits will pay up to \$16,320 each as a result of invoice errors. The proposed rule amendments are retroactive for previous years' fees and reduce the economic hardship for affected facilities by waiving the late fees and only requiring the past two years of underpayment to be collected. As a result of the amendments, facilities will pay no more than \$3,840 in underpaid permit fees and DEQ will allow facilities to establish a payment plan that can be spread out over three years.

This option to excuse all but the past two years of the underpaid fees and waive late fees will only be available to companies who are able to certify they were unaware they were underpaying the fees. This is because a number of facilities paying the low fee previously submitted to DEQ a declaration stating they qualified for the low fee when they did not. DEQ understands that in many cases this was an error and not intentional.

#### Affected parties

The proposed rule amendments affect all facilities holding air contaminant discharge permits and any facility that will apply for this type of permit in the future. The proposed rule amendments will also affect facilities holding air contaminant discharge permits that must report on greenhouse gases and facilities holding simple permits that were found to have underpaid fees in previous years.

#### How temporary rules would avoid or mitigate consequences

The temporary rule will allow DEQ to issue invoices as scheduled in October 2013 and avoid a supplemental billing. It will also negate an inadvertent increase to greenhouse gas reporting fees, which are invoiced at the same time as the air contaminant discharge permits. The temporary rule will also reduce the cost of past fees and late fees for facilities holding simple permits that unintentionally underpaid air contaminant discharge permit fees.

## Rules affected, authorities, supporting documents

Lead division

Air Quality Division

Program or activity

Air Contaminant Discharge Permit Program

Chapter 340 action

Amend

ORS 340-216-0020 Table 2, 340-216-0062; 340-216-0064, 340-210-0100

Statutory authority

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

Other authority

Statute implemented

ORS 468A.050

Legislation

Senate Bill 5520

Year

2013

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

Document title	Document location
Senate Bill 5520 (2013)	<a href="http://www.leg.state.or.us/13reg/measures/sb5500.dir/sb5520.en.html">www.leg.state.or.us/13reg/measures/sb5500.dir/sb5520.en.html</a>
Senate Bill 5520 Budget Reports	DEQ Headquarters 811 SW 6 <sup>th</sup> Avenue Portland OR 97204

## Housing costs - ORS 183.534

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

## Fees - Increase to existing fees

The Oregon Environmental Quality Commission's approval of this rule proposal would increase existing fees. EQC authority to act on the proposed fees is ORS 468A.050.

Brief description of proposed fees

The proposed rule amendments increase fees for all facilities holding air contaminant discharge permits by 20 percent.

## Reasons

The proposed fees would address:

- Increased program costs due to general inflation and personal services cost increases associated with salaries, medical insurance and retirement benefits.
- Response to legislative concerns to have an adequately funded program. The 2013 Oregon Legislature approved DEQ's budget package restoring 3.67 full-time equivalent positions that would otherwise be cut based on a fee increase.

## Fee proposal alternatives considered

DEQ did not consider alternatives because the policy package based on the fee increase was considered and approved by the 2013 Oregon Legislature.

## Fee payer

There are approximately 2,600 businesses with air contaminant discharge permits in Oregon. Many are small businesses with 50 or fewer employees. Generally, facilities with less complex permits would experience a smaller annual economic impact than larger facilities with more complex permits.

## Affected party involvement in fee-setting process

DEQ worked with stakeholders including Associated Oregon Industries during development of the policy package approved by the 2013 Oregon Legislature.

## Summary of impacts

Using 2012 invoice information, DEQ estimates that about 73 percent of air contaminant discharge permit holders would experience an annual fee increase between \$24 and \$144, approximately 19 percent would experience an annual fee increase between \$259 and \$384, and approximately eight percent would experience an annual fee increase between \$768 and \$1,536.

## Fee payer agreement with fee proposal

Industrial groups, representing many of the fee payers, did not oppose the fee increase in the legislative process.

## Links to supporting documents for proposed fees

Document title	Document location
Senate Bill 5520 (2013)	<a href="http://www.leg.state.or.us/13reg/measures/sb5500.dir/sb5520.en.html">www.leg.state.or.us/13reg/measures/sb5500.dir/sb5520.en.html</a>
Senate Bill 5520 Budget Reports	DEQ Headquarters 811 SW 6 <sup>th</sup> Avenue Portland OR 97204

## How long will the current fee sustain the program?

The current fee will not sustain the program. Without the fee increase, DEQ would have cut 3.67 positions.

Program costs 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?

It is expected that the annual revenue from the proposed fees will sustain the program through 2017.

Expected change in revenue (+/-)	\$1,280,000	20%
Min GF required by statute/rule to fund program	\$0	0%
Proposed fee allows General Fund replacement	\$0	0%
Expected effective date	10/17/2013	

#### Transactions and revenue

The number of transactions includes annual permitting fees assessed to all permit holders plus 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 biennium	Approx. 2,770	2,600	\$1,280,000	\$7,700,000
Next biennium	Approx. 2,770	2,600	\$1,280,000	\$7,700,000

#### Fee schedule

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

Table 1 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

## Fee analysis – Addressing invoice corrections in 340-216-0064

The Oregon Environmental Quality Commission's approval of this rule proposal would decrease the amount of the fees due from facilities holding simple permits that were invoiced for a low annual fee but did not meet the low fee criteria over the past one to nine years. EQC authority to act on the proposed fees is ORS 468A.050.

### Brief description of proposed fees

The proposed rules excuse all but the past two years of the underpaid fees and waive late fees for facilities who are able to certify they were unaware they were underpaying the fees.

### Reasons

The current rule requires facilities to pay all fees owed, including late fees. Facilities with nine years of invoice errors would owe \$16,320 in past-due fees. DEQ believes that issuing invoices for the past-due fees and late fees combined with the invoice for the upcoming operating year's annual fees could create an economic hardship for some facilities. The proposed rule amendments address the economic hardship for affected facilities by reducing the amount of the fee corrections.

### Fee payer

Approximately 25 facilities are affected by the proposed rule amendments.

### Summary of impacts

As a result of the proposed rule amendments, DEQ would forgive \$124,000 in past-due annual fees. Three facilities underpaid their annual invoices for nine years and would each pay \$16,320 in past due annual fees; however, because the proposed rules excuse all but the past two years of the fees, these facilities would each pay \$3,840 instead. This is a savings of \$12,480 per facility. In addition, three facilities would each pay between \$12,000 and \$15,000, four facilities would each pay between \$7,000 and \$10,000, and the remaining facilities would pay up to \$5,760 in past due fees. As a result of the proposed rules, these facilities would each save between \$1,900 and \$10,600 in past due fees.

### Advisory committee

DEQ did not convene an advisory committee because the proposal has already been considered and approved by the 2013 Oregon Legislature.

### EQC prior involvement

DEQ shared information about the proposed fee increase with the Environmental Quality Commission in ongoing budget updates during the 2013 session of the Oregon Legislature and at the August 2013 commission meeting.

### Public notice

DEQ provided notice of the temporary rule in the following ways:

- Posted notice on DEQ's webpage (<http://www.oregon.gov/deq/RulesandRegulations/Pages/2013/ACDP.aspx>) on Oct. 2, 2013.
- Mailed notice by the U.S. Postal Service to representatives of permit holders Aug. 1 and Sept. 30, 2013.
- Emailed notice Aug. 1 and Oct. 2, 2013 to stakeholder groups, including Associated Oregon Industries and Northwest Pulp and Paper Association.
- Emailed notice Oct. 2, 2013 to approximately 6,200 interested parties through GovDelivery, including DEQ's rulemaking and air quality permits interested persons lists.
- Emailed notice Oct. 2, 2013 to the following legislators 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

### Public comment

DEQ did not solicit public comment on the temporary rule. DEQ will accept comment and hold a public hearing during developing of the permanent rule amendments.

## Implementation

### Notification

The proposed rules would become effective upon filing, which would occur following commission action at the Environmental Quality Commission meeting Oct. 16-17, 2013. DEQ would mail invoices to air contaminant discharge permit holders in October 2013 with payment due in December



2013. Because this is a continuation of an existing program, no additional resources or training will be needed to implement the rule.

#### Compliance and enforcement

- Affected parties - None
- DEQ staff – None

#### Measuring, sampling, monitoring and reporting

- Affected parties - None
- DEQ staff - None

#### Systems

- Website - None
- Database - None
- Invoicing – DEQ staff will update the fee amounts in the invoicing database.

#### Training

- Affected parties - None
- DEQ staff - None

## 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

The following Administrative Procedures Act exemptions from the five-year rule review apply to all of the proposed rules:

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

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### DIVISION 216

#### AIR CONTAMINANT DISCHARGE PERMITS

### OAR 340-216- 0020

#### AIR CONTAMINANT DISCHARGE PERMITS

**Table 2**

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

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

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

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

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

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

**Part 3. Specific Activity Fees:**

a. Non-Technical Permit Modification (1)	<del>\$360.00</del> <u>\$432.00</u>
b. Non-PSD/NSR Basic Technical Permit Modification (2)	<del>\$360.00</del> <u>\$432.00</u>
c. Non-PSD/NSR Simple Technical Permit Modification(3)	<del>\$1,200.00</del> <u>\$1,440.00</u>
d. Non-PSD/NSR Moderate Technical Permit Modification (4)	<del>\$6,000.00</del> <u>\$7,200.00</u>

Item E 000010

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

#### Part 4. Late Fees:

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

340-216-0062

#### General ACDP Attachments

(1) Purpose. This rule allows a source to be assigned to one General ACDP and one or more General ACDP Attachments, as long as the General ACDP and General ACDP Attachment(s) contain all requirements applicable to the source. This would allow

a source to avoid having to obtain a more costly Simple or Standard ACDP if there are no General ACDPs that contain all requirements applicable to the source.

(2) Applicability.

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

- (A) There are several sources that involve the same or substantially similar types of operations;
- (B) All requirements applicable to the covered operations can be contained in a General ACDP Attachment;
- (C) The emission limitations, monitoring, recordkeeping, reporting and other enforceable conditions are the same for all operations covered by the General ACDP Attachment;
- (D) The pollutants emitted are of the same type for all covered operations. If a General ACDP and a General ACDP Attachment(s) cannot address all activities at a source, the owner or operator of the source must apply for a Simple or Standard ACDP in accordance with this Division.

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

- (A) All relevant requirements for the operations covered by the General ACDP Attachment, excluding any federal requirements not adopted by the EQC;
  - (B) Testing, monitoring, recordkeeping, and reporting requirements necessary to ensure compliance with the applicable emissions limits and standards; and
  - (C) An attachment expiration date not to exceed 10 years from the date of issuance.
- (c) Attachment issuance procedures: A General ACDP Attachment requires public notice and opportunity for comment in accordance with OAR 340 division 209 for Category II permit actions. All General ACDP Attachments will be on file and available for review at DEQ's headquarters.

(3) Source assignment:

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

(b) Fees. Permittees must pay an annual fee of \$120144 for each assigned General ACDP Attachment.

(c) Assignment procedures:

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

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

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

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

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

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

Stat. Auth.: ORS 468 & 468A  
Stats. Implemented: ORS 468.020 & 468A.025  
Hist.: DEQ 8-2009, f. & cert. ef. 12-16-09; DEQ 4-2013, f. & cert. ef. 3-27-13

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

#### **Simple ACDP**

(1) Applicability.

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

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

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

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

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

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

(D) The location of the source; and

(E) The compliance history of the source.

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

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

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

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

(i) Category 7. Asphalt felt and coatings;

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

(iii) Category 33. Galvanizing & Pipe coating;

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

(v) Category 40. Gypsum products;

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

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

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

(ix) Category 62. Perchloroethylene Dry Cleaning;

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

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

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

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

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

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

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

(4) Permit Content.

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

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

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

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

(5) Permit issuance procedures:

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

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

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

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

Stat. Auth.: ORS 468.020

Stats. Implemented: ORS 468A

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

## DIVISION 210

### STATIONARY SOURCE NOTIFICATION REQUIREMENTS

#### Registration

##### 340-210-0100

##### Registration in General

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

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

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

(A) Motor vehicle surface coating operations.

(B) Dry cleaners using perchloroethylene.

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

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

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

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

(C) Late fees.

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

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

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

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

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

(3) The owner or operator of an air contaminant source that is subject to a federal NSPS or NESHAP in 40 CFR Part 60 or 40 CFR Part 63 and that is not located at a source that is required to obtain a permit under OAR chapter 340, division 210 (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