
Date: June 22, 2006

To: Environmental Quality Commission

From: Stephanie Hallock, Director

Subject: Agenda Item I, Rule Adoption: Oregon Title V Operating Permit Program CPI Fee Increase, June 22-23, 2006, EQC Meeting

Department Recommendation The Department of Environmental Quality (DEQ) recommends that the Environmental Quality Commission (EQC) amend OAR 340-220-0030 through 0050 to increase Title V operating permit fees by the 2005 Consumer Price Index as presented in Attachment A.

Background and Need for Rulemaking Title V of the federal Clean Air Act requires that each major industrial source of air pollution obtain and comply with an operating permit. The Clean Air Act also requires that all sources subject to permitting under Title V pay fees sufficient to cover all reasonable costs of the program. Oregon statute establishes these Title V permit fees and provides for inflationary adjustments to the fees based on the change in the consumer price index (CPI) to ensure that the funding requirement is met. Oregon Administrative Code must be revised annually to reflect these fee changes. Title V permitting fees have increased each year since 1993 except for 2001, when the program was expected to be adequately funded based on the projected end-of-year fund balance.

Effect of Rule The proposed rule increases fees for all Oregon Title V Operating Permit Program sources. DEQ projects that approximately 128 sources will be subject to Title V in FY 2007. Title V permittees are generally the largest stationary emission sources in Oregon and include facilities for power generation and manufacture of wood, paper products and fiberglass. Smaller sources, such as wood refinishing and fiberglass reinforced plastic facilities, are also subject to Title V if they have the potential to emit more than ten tons of hazardous air pollutants.

The CPI increase of approximately 3.4 percent was used to calculate the proposed increase for the following fee types:

1. Base fee—Assessed annually to all sources subject to Title V permitting regardless of emission quantities. (Current fee is \$3,268; proposed fee is \$3,379.)

2. Emission fee—Assessed annually to all sources, in addition to the base fee. Emission fees are based on actual or allowable emissions from the individual source. (Current fee is \$38.08 per ton of emissions per year; proposed fee is \$39.38 per ton of emissions per year.)

3. Specific activity fee—Assessed when a source owner or operator wants to modify a permit. Specific activity fees reflect the complexity of the requested permit modification as described below:

Type of permit modification¹	Current fee	Proposed fee
Administrative	\$327	\$338
Simple	\$1,307	\$1,352
Moderate	\$9,804	\$10,137
Complex	\$19,607	\$20,273
Ambient Review	\$2,614	\$2,703

Commission Authority

The Commission has authority to take this action under ORS 468A.315.

Stakeholder Involvement

An advisory panel was not convened to develop this proposed rule, because no policy issues were identified. Title V sources are familiar with DEQ authority to increase permit fees. DEQ mailed copies of the public notice package to all Title V sources and interested parties on February 15, 2006. The public notice package consisted of information on the proposed rule and the public hearing to be held on March 20, 2006.

Public Comment

A public comment period extended from February 15, 2006, to March 31, 2006, and included a public hearing in Portland, Oregon. No one provided oral comments at the public hearing; two organizations provided written comments. Results of public input are provided in Attachments B and C.

Key Issues

The CPI is an indicator of inflation in the economy, but has not kept up with increases in state employment costs. DEQ is working with stakeholders on long-term funding for the Title V program and will propose legislation in 2007 to “catch up” with current costs by increasing the fee by an amount greater than the CPI. The legislation will also authorize a rule change allowing automatic annual fee adjustments to reflect the CPI in subsequent years, thus eliminating the need for annual rulemaking. Due to timing, the planned legislative proposal does not eliminate the need for the CPI fee increase currently proposed.

¹ A description of permit modification categories is available upon request.

Next Steps If adopted by the EQC, this rule will become effective upon filing with the Secretary of State. Invoices reflecting the new fee schedule will be mailed to fee payers in July 2006 with payment due in August 2006. Since this rule change supports continuation of an existing program, no additional resources or training will be needed to implement the rule.

- Attachments**
- A. Proposed Rule Revisions
 - B. Summary of Public Comments and Agency Responses
 - C. Presiding Officer's Report on Public Hearings
 - D. Relationship to Federal Requirements Questions
 - E. Statement of Need and Fiscal and Economic Impact
 - F. Land Use Evaluation Statement

- Available Upon Request**
- 1. Legal Notice of Hearing and Public Notice Package
 - 2. Cover Memorandum from Public Notice
 - 3. Written Comment Received

Approved:

Section: _____

Division: _____

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