

Attachment C

Oregon Department of Environmental Quality

Proposal to increase Oregon Air Contaminant Discharge Permit Fees by 20 percent

ACDP Fee Increase Advisory Committee Membership and Report

Overview and purpose

The Oregon Department of Environmental Quality (DEQ) established the ACDP Fee Increase Rulemaking Advisory Committee to review the fiscal and economic impacts of DEQ's proposed rulemaking to increase Oregon's Air Contaminant Discharge Permit (ACDP) fees by 20 percent. DEQ requested that each committee member provide comments and recommendations on DEQ's draft Statement of Need and Fiscal and Economic Impact and answer three questions derived from Administrative Procedures Act requirements for fiscal impact analysis (OAR 183.333) as follows:

- Do the rules have a fiscal and economic impact?
- What is the extent of that fiscal and economic impact?
- Will the rule have a significant adverse impact on small businesses?

Committee members

Roald K. Berg, Small Business Compliance Advisory Panel

Barbara Crest, Northwest Auto Trade Association

Dona Hippert, Oregon Toxics Alliance and Northwest Environmental Defense Center

Chris Rich, Oregon Business Association

Tom Wood, Associated Oregon Industries

Others in attendance included DEQ staff Uri Papish, Sarah Armitage, Andrea Curtis, and Rebecca Hillwig.

Proposed rule background

The proposed rulemaking would increase ACDP fees by 20 percent for all permit categories. This increase matches the rise in ACDP program costs since 2001. The annual revenue from a 20 percent fee increase would fully fund the ACDP Program for two biennia. Without this fee increase, DEQ would need to cut two ACDP program positions in the 2007-2009 biennium, and two additional positions in the 2009-2011 biennium. The proposed ACDP fee increase will benefit Oregonians and the environment by helping DEQ:

- issue and renew ACDP permits in a timely manner;
- meet the Oregon Progress Board economic benchmark to issue 90% of ACDP permits within the target timeframes;
- complete required ACDP inspections;
- monitor and enforce compliance with air quality regulations that apply to ACDP facilities.

Meeting summary

This meeting took place June 27, 2007, from 1 p.m. to 2:30 p.m. at DEQ Headquarters. This meeting was tape recorded and that recording is incorporated by this reference. The committee was provided DEQ's draft Statement of Need and Fiscal and Economic Impact statement for the proposed rules, House Bill 3238, the Administrative Procedures Act requirements for fiscal

impact analysis, handouts from a DEQ staff fee increase presentation, and a list of businesses holding ACDPs. These materials are available upon request.

Committee recommendations

The ACDP Fee Increase Rulemaking Advisory Committee was tasked with answering three main questions derived from OAR 183.333. The questions as well as the Committee's answers are summarized below:

1. Does the rule have a fiscal and economic impact?

Yes

2. What is the extent of that fiscal and economic impact?

The extent of the impact is outlined adequately in the DEQ Statement of Need and Fiscal and Economic Impact. However, the ACDP Fee Increase Rulemaking Advisory Committee recommends adding the following information:

- A) A statement about positive economic benefits which may come from improvements in public health and welfare resulting from an adequately funded ACDP program. A fee increase that provides sufficient resources for compliance and technical assistance may help avoid public health costs associated with lower compliance and potentially increased air pollution.*
- B) Additional statements about the possible negative impacts of Specific Activity Fees including discouraging out of state businesses from coming to Oregon and greater obstacles to new businesses needing ACDPs.*
- C) A statement about whether the current fee structure (ratio of fee levels compared to one another) is thought to be equitable among sources.*

3. Will the rule have a significant adverse impact on small businesses?

The ACDP Advisory Committee concluded that the rule could have a significant adverse effect on small business but it does not have enough information to conclusively make a finding to that effect. However, the Advisory Committee stated that despite any possible adverse effect on small business it did not believe there is a need at this time for additional mitigation steps as outlined in ORS 183.540. The benefits of an effective ACDP program, such as adequate service to businesses and continued protection of public health outweigh the potential fiscal burdens on small business. The fees are currently structured in a way that minimizes fiscal impacts on sources with smaller emissions, many of which are small businesses. If comments received during the public comment period reveal significant adverse fiscal impacts on small businesses, DEQ may reconsider the need for alternative mitigation.

Committee Conclusion

The Committee reviewed DEQ's draft Statement of Need and Fiscal and Economic Impact and provided comments and recommendations. DEQ modified the document as recommended by the Committee.