

Attachment F

Oregon Department of Environmental Quality

Chapter 340

Proposed Rule Change:

Oregon Air Contaminant Discharge Permit Fee Increase

Statement of Need and Fiscal and Economic Impact

Rule Caption	The Department of Environmental Quality proposes to increase Oregon's Air Contaminant Discharge Permit Fees by 20%.
Title of Proposed Rulemaking	Oregon Air Contaminant Discharge Permit Fee Increase
Need for the Rule	<p>Oregon's Air Contaminant Discharge Permit (ACDP) program requires additional funding to continue to effectively protect Oregon's air quality. The proposed fee increase matches the rise in ACDP program costs since 2001. Without this increase, DEQ would have to cut program functions and services such as permitting, facility inspections and complaint response, which could cause delays in permitting, possible degradation of air quality due to out of date permits, reduced compliance assistance, and reduced technical assistance in permitting and pollution prevention. Because of inadequate resources, DEQ is currently unable to meet its target for timely issuance of ACDPs.</p> <p>The annual revenue from a 20% fee increase would fully fund the ACDP Program for at least two biennia. The proposed ACDP fee increase would benefit Oregonians and the environment by helping DEQ:</p> <ul style="list-style-type: none">• 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
Documents Relied Upon for Rulemaking	<p>Documents relied upon to provide the basis for this proposal include:</p> <ul style="list-style-type: none">• 2007-2009 Legislatively Approved Budget• Fiscal Year 2008 ACDP Revenue Forecast• ACDP Fiscal Committee Meeting Summary <p>Copies of these documents may be reviewed at the Department of Environmental Quality's office at 811 SW 6th Avenue, Portland, Oregon 97204.</p>
Fiscal and Economic Impact	
Overview	<p>The ACDP program is an important part of DEQ's strategy to maintain clean air and controls the amount of air pollution from industrial facilities. Industrial permitting maintains healthy air and addresses new air quality challenges such as tighter federal health standards and air toxics requirements. Investing in clean air provides a healthy environment that supports vibrant economies and healthy communities while accommodating rapid population growth.</p> <p>ACDP fees pay approximately 85% of ACDP program costs. The remaining costs are funded by state General Funds and federal funds. The fees pay for permitting, technical assistance, inspections, enforcement, rule and policy development, data management, EPA reporting, and support a portion of air quality monitoring, planning and program management. Unlike fees in</p>

the Title V program, which regulates air emissions from large industrial facilities, ACDP fees do not increase yearly based on cost increases from inflation.

ACDP fees were restructured during a fee overhaul in 2001 that created equity among ACDP permittees. The proposed rulemaking maintains equity among ACDP permittees because it maintains the fee ratios established in 2001.

The proposed ACDP fee increase would affect all of the approximately 1,130 businesses required to maintain ACDPs. Many are small businesses with 50 or fewer employees. In general, sources with lower emissions and less complex permits would experience a smaller annual impact than would large sources with more complex permits. Based on 2006 invoice information, DEQ estimates that with a 20% fee increase, about 78% of ACDP permittees would experience an annual fee increase between \$60 and \$320. The larger ACDP sources (approximately 22%) would experience an annual fee increase between \$640 and \$1,280.

The two tables below for annual and initial permit fees show the amount of the proposed fee increase and number of permits in each fee category. Specific Activity Fees, such as permit modification fees, contribute a relatively small portion of program revenue. The proposed fee increase to Specific Activity Fees is available in Attachment A.

Annual Permitting Fees	From:	To:	Increase:	Number of Permits in 2006
Basic ACDP	\$300	\$360	\$60	161
General Class I ACDP	\$600	\$720	\$120	201
General Class II ACDP	\$1,080	\$1,296	\$216	331
General Class III ACDP	\$1,560	\$1,872	\$312	157
Simple Low ACDP	\$1,600	\$1,920	\$320	38
Simple High ACDP	\$3,200	\$3,840	\$640	94
Standard ACDP	\$6,400	\$7,680	\$1,280	149

Initial Permitting Fees	From:	To:	Increase:	Number of Initial Permits in 2006
Short Term Activity ACDP	\$2500	\$3000	\$500	0
Basic ACDP	\$100	\$120	\$20	19
Assignment to General ACDP	\$1,000	\$1,200	\$200	37
Simple ACDP	\$5,000	\$6,000	\$1,000	7
Construction ACDP	\$8,000	\$9,600	\$1,600	2
Standard ACDP	\$10,000	\$12,000	\$2,000	2
Standard ACDP (New Source Review)	\$35,000	\$42,000	\$7,000	0

Request for Other Options

Pursuant to ORS 183.335(2)(b)(G), DEQ requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

Impacts on the

DEQ does not anticipate any direct fiscal or economic impacts from the proposed fee increases

<p>General Public</p>	<p>on the general public. The proposed fee increases could indirectly affect the general public because the fee increases could be passed through by ACDP permit holders, resulting in a slight increase in the costs of products or services provided by businesses with ACDPs.</p> <p>Air pollution creates public health problems that can have negative economic impacts. The proposed fee increases could create positive economic benefits and improvements in public health and welfare resulting from an adequately funded 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 increased air pollution.</p>	
<p>Impacts on Small Business (50 or fewer employees –ORS183.310(10))</p>	<p>The proposed increase of 20% for all fee categories would directly affect approximately 1,130 businesses with ACDPs in Oregon. DEQ estimates that approximately half of these (565) are small businesses with 50 or fewer employees. The increased Specific Activity Fees could potentially discourage out of state businesses from coming to Oregon and could pose greater obstacles for new companies and startup businesses needing ACDPs.</p> <p>The proposed fee increases could also indirectly impact small businesses because the fee increases could be passed through by ACDP holders, resulting in a slight increase in the costs of products or services.</p>	
<p>Cost of Compliance on Small Business (50 or fewer employees –ORS183.310(10))</p>	<p>a) The estimated number of small businesses subject to the proposed fee increases</p>	<p>DEQ estimates that approximately 565 small businesses would be subject to the proposed fee increases.</p>
	<p>b) The types of businesses and industries with small businesses subject to the proposed fee increases</p>	<p>Many different types of small businesses could be subject to the proposed fee increase. Categories include seed and grain companies; sand, rock and gravel operations; asphalt paving; crematories; commercial boilers; furniture manufacturing; food preparation; metal plating; wood products and printing.</p>
	<p>c) The projected reporting, recordkeeping and other administrative activities required by small businesses for compliance with the proposed fee increases</p>	<p>The proposed rule amendments do not establish any additional reporting, recordkeeping or other administrative activities.</p>
	<p>d) The equipment, supplies, labor, and increased administration required by small businesses for compliance with the proposed fee increases</p>	<p>The proposed rule amendments do not require any additional equipment, supplies, labor or increased administration.</p>
	<p>e) A description of the manner in which DEQ involved small businesses in the development of the proposed fee increases</p>	<p>In fall 2006, DEQ described the proposed ACDP fee increase at Air Quality Permit Program information sessions held in Medford, Bend, Pendleton and Portland. DEQ also communicated the proposed fee increase to its Small Business Compliance Advisory Panel in fall 2006 and to the Associated Oregon Industries Air Committee in early 2007. In November 2006, DEQ provided notice of the proposed fee increase to lobbyists for many of the industrial sectors requiring ACDPs. In December 2006, DEQ posted a fact sheet describing the proposed fee increase on its website. As part of its 2007 legislative budget process, DEQ submitted detailed information about ACDP program funding and the proposed fee increase to the legislature.</p>

		<p>DEQ sent the Notice of Proposed Rulemaking by mail or electronically to ACDP sources and interested parties on July 16, 2007. The August 16, 2007 public hearing provided a forum for both large and small ACDP holders and interested parties to comment on the rule.</p>
<p>Impacts on Large Business</p>	<p>The proposed fee increases would directly impact large businesses required to have an ACDP. DEQ estimates that approximately half of ACDP holders (565) are large businesses with more than 50 employees. The increased Specific Activity Fees could potentially discourage out of state businesses from coming to Oregon and could pose greater obstacles for new companies and startup businesses needing ACDPs.</p> <p>Large businesses could also be indirectly affected because the fee increases could be passed through by ACDP holders, resulting in a slight increase in the costs of products or services.</p>	
<p>Impacts on Local Government</p>	<p>The proposed fee increases would directly impact local governments required to have ACDPs. Based on 2006 invoice information, DEQ projects that the proposed fee increases would result in the following impacts on local government facilities in FY 2008:</p> <ul style="list-style-type: none"> • Sewage and Water Treatment facilities: seven facilities affected <ul style="list-style-type: none"> ○ One facility would have a \$216 increase ○ Three facilities would have a \$640 increase ○ Three facilities would have a \$1,280 increase • Landfills and refuse systems: seven facilities affected <ul style="list-style-type: none"> ○ One facility would have a \$60 increase ○ Two facilities would have a \$120 increase ○ Four facilities would have a \$640 increase • Institutional boilers: nineteen facilities affected <ul style="list-style-type: none"> ○ One facility would have a \$60 increase ○ Seventeen facilities would have a \$216 increase ○ One facility would have a \$320 increase • Rock, gravel and paving: ten facilities affected <ul style="list-style-type: none"> ○ Three facilities would have a \$60 increase ○ One facility would have a \$120 increase ○ Six facilities would have a \$216 increase • Electric power generation: one facility would have a \$216 increase <p>The proposed fee increases could indirectly impact local governments because the fee increases could be passed through by ACDP holders, resulting in a slight increase in the costs of products or services.</p>	
<p>Impacts on State Entities</p>	<p>The proposed fee increases would directly impact state entities required to have ACDPs. Based on 2006 invoice information, DEQ projects that the proposed fee increases would result in the following impacts on state entities in FY 2008:</p> <ul style="list-style-type: none"> • Landfills and refuse systems: one facility would have a \$640 increase • Institutional boilers: eight facilities affected <ul style="list-style-type: none"> ○ Seven facilities would have a \$216 increase ○ One facility would have a \$1,280 increase • Rock, gravel and paving: two facilities would have a \$216 increase • Electric power generation: three facilities affected <ul style="list-style-type: none"> ○ One facility would have a \$216 increase ○ Two facilities would have a \$320 increase <p>The proposed fee increases could indirectly impact state entities including DEQ and other agencies because the fee increases could be passed through by ACDP holders, resulting in a slight increase in the costs of products or services.</p>	

Impacts on DEQ	DEQ would not incur additional costs to implement the proposed fee increases. Instead, DEQ would gain additional resources needed to operate its ACDP Program.
Impacts on other Agencies	DEQ anticipates that no other agencies would be directly affected by the proposed rule amendments.
Assumptions	Estimated revenue forecasts and expenditures are based on the assumption that all facilities subject to the ACDP Program have been identified, and that the number of ACDP permits and facility emissions will remain approximately the same as in 2006. DEQ projects approximately 1,130 sources will be subject to ACDP permitting and fee requirements in FY 2008.
Housing Costs	DEQ has determined that the proposed fee increases may have a negative impact on the development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel if ACDP permit holders providing for such development and construction pass on the fee increase through their goods and services. 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% fee increase would be passed on to consumers and any such estimate would be speculative.
Administrative Rule Advisory Committee	<p>An ACDP Fee Increase Rulemaking Advisory Committee was convened to generate input and recommendations on the fiscal impact statement for the proposed rule amendments. The committee concluded that the proposed fee increases would have a fiscal and economic impact and could have a significant adverse effect on some small businesses, but did not have enough information to conclusively make a finding to that effect. However, the 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. In addition, 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 revealed significant adverse fiscal impacts on small businesses, DEQ would have reconsidered the need for alternative mitigation.</p> <p>The Notice of Proposed Rulemaking was distributed to ACDP businesses and interested parties in July 2007.</p>

Prepared by: Sarah Armitage

Approved by DEQ Budget Office: Andree Pollock