



Draft Fiscal Impact Statement

Cleaner Air Oregon and Air Toxics Alignment and Updates 2021

Statement of fiscal and economic impact

The key goals of the Cleaner Air Oregon and Air Toxics Alignment and Updates 2021 rulemaking are to:

- Strengthen the process for setting and updating new health risk-based standards for air quality;
- Align the recently established Cleaner Air Oregon program with the Oregon State Air Toxics program adopted in 2003; and
- Clarify certain Cleaner Air Oregon requirements for facilities and address inefficiencies in the risk assessment process.

The rulemaking proposes changes to Cleaner Air Oregon (division 245) and the Air Toxics Program (division 246) in order to achieve the goals as shown below:

- Specifically, to strengthen the process for setting and updating new health risk-based reference values, DEQ proposes updates to:
 - Authoritative sources for developing Toxicity Reference Values [OAR 340-247-0030(1)(a-e)];
 - Petition requirements to revise, add, or remove a toxic air contaminant from the Priority list or Toxicity Reference Value [OAR 340-247-0040(2)(b), (4)(d)(B)(iii)]; and
 - Re-scoping ATSAC to provide technical consultation during the triennial Toxicity Reference Value review [OAR 340-247-0030(1), (3)(b, e, f), and (6)].
- In order to align DEQ's two toxic air contaminants programs, namely Cleaner Air Oregon (division 245) and the Oregon State Air Toxics program (division 246), DEQ proposes:
 - Moving the reporting list of toxic air contaminants [[OAR 340-245-8020 Table 2](#)] and their Toxicity Reference Values [[OAR-245-8030 Table 3](#)] from division 245 to a newly created division 247;
 - Updating the process for modifying the toxic air contaminants to be reported and the table of Toxicity Reference Values;
 - Defining Ambient Benchmark Concentrations in division 246 [OAR 340-246-0030(2)] in terms of Toxicity Reference Values in division 247; and
 - Removing the rule language while retaining future intent to develop the Safety Net Program [OAR 340-246-0010(1) and [OAR 340-246-0190 through -0230].
- Additionally, DEQ proposes certain changes in order to clarify and address inefficiencies in the following rules in Cleaner Air Oregon (division 245) by:
 - Updating the 'New Source' definition to include relocation;
 - Requiring risk from aggregated Toxics Emissions Units to be included in the risk assessment;

- Reducing Risk Assessment timelines for sources DEQ anticipates may be over the Immediate Curtailment Risk Action Level;
- Reducing Risk Reduction Plan timelines to 30 days (from 120 days);
- Allowing DEQ to request periodic statewide emissions inventories at other than three year intervals;
- Updating New Source Review submittal requirements, and to include State Type B New Source Review;
- Clarifying modeling parameter requirements for Level 1 Risk Assessments;
- Revising the list of categorically exempt Toxics Emissions Units;
- Updating Toxic Air Contaminant Permit Addendum application and modification procedures;
- Clarifying risk reduction and postponement of risk reduction;
- Updating Pollution Prevention Plan requirements
- Updating the ‘Regulated Air Pollutant’ definition in division 200; and
- Minor housekeeping changes throughout

Fiscal and Economic Impact

Overall, adoption of the proposed rule changes is not expected to have significant fiscal or economic impacts. The proposed rule changes create no new fees and do not modify the existing fee structure. The proposed rule changes to strengthen the process for updating health risk-based values and to align divisions 245 and 246 are anticipated to have no fiscal impacts. Some changes proposed to division 245 rules to address clarifications and inefficiencies may have a fiscal impact on all facilities, either a net increase or decrease. However, most of the rule changes in division 245 are likely to have a fiscal impact on only a limited number of the approximately 2,701¹ facilities (including private businesses and some government and public entities) that hold Air Contamination Discharge Permits and that would be subject to these rules.

Two of the proposed rule changes in division 245 have a very small fiscal impact on all permitted facilities: reducing the number of paper copies of the Toxics Air Contaminant Permit Addendum Application and updating the definition for ‘Regulated Air Pollutant in division 200. The remaining rule changes (that propose to clarify a rule or address an inefficiency in division 245) have a fiscal impact on only a limited number of the total number of facilities that are subject to these rules. Each of these proposed rule changes applies to a subset of operating conditions for permitted facilities. Since the operating conditions for each facility are different, facilities are likely to see different fiscal impacts, either as a net increase or net decrease in cost for each facility. These fiscal impacts are described in greater detail below.

¹ Estimate of number of permitted facilities in the state as of August 2019 based on the [Hazard Index Fiscal Impact Statement](#) (2019).

Fiscal impact of changes made to strengthen health-risk based toxicity reference values

The proposed rule changes to strengthen health-risk based toxicity reference values (summarized on page 1) are procedural changes intended to strengthen and clarify the process for setting and updating Toxicity Reference Values. These changes are not expected to have a fiscal impact for DEQ, other state agencies, local governments or large and small businesses. In the long term, DEQ expects that strengthening the process for setting health risk-based values will provide greater health benefits to the public.

Fiscal impact of alignment changes to Divisions 245 & 246

The proposed rule changes to align division 245 and 246 are summarized on page 1. The first three proposed rule changes under the alignment subsection on page 1 represent a reorganization of existing rules to create a new division that can be referenced by both divisions 245 and 246. The proposed changes are not expected to have a fiscal impact on DEQ, other state agencies, local governments or large and small businesses. These proposed rule changes are also not expected to have any direct effect on public health.

As part of the alignment, DEQ also proposes to remove rule language pertaining to the Safety Net Program while retaining the rule section indicating future intent to develop new Safety Net Program rules. The effort to develop future rules for the Safety Net Program falls outside the scope of the current rulemaking. Since the Safety Net program has not been invoked since adoption, DEQ estimates that removing the Safety Net Program rule language will have no fiscal impact on businesses or DEQ.

Fiscal Impact of changes to Division 245 to address clarification and inefficiencies

The proposed changes addressing clarifications and inefficiencies to division 245 rules, may have no fiscal impact, a positive fiscal impact or a negative fiscal impact on sources. In general, these proposed changes would not adjust any fee schedules currently required by the program, but fiscal impacts could result from some sources having to pay additional fees as a result of the proposed rule changes (Attachment A and B).

Estimates of the fiscal impact of proposed rule changes, beyond specific program and activity fees, are based on the 2018 fiscal impact analysis included in the [2018 Statement of Fiscal and Economic Impact](#) from the Cleaner Air Oregon rulemaking, more specifically, Attachment C and D. DEQ concludes that the cost ranges in the CAO fiscal analysis have not changed significantly since that analysis was completed, and they are still an accurate approximation of potential costs that may be referenced to assess the potential fiscal impacts of proposed updates to division 245.

It is important to note that the scope of this current fiscal impact statement is limited to only those proposed changes in this rulemaking.

Estimated Fiscal Impacts by Proposed Rule Change (Division 245)

New Source Definition [OAR 340-245-0020(33)]

This proposed rule change will require an existing source that relocates its operations to a new location to be re-defined as a new source in the CAO program. For sources choosing to relocate, this proposed change would result in an increase in CAO Specific Activity Fees,² based on the existing versus new source call-in fees; the amount of these cost increases is based on the type of Air Quality permit the source is required to obtain.

This proposed change would require a relocating source to comply with the new source Risk Action Levels under [OAR 340-245-8010 Table 1](#). The new source Risk Action Levels are more stringent than the existing source Risk Action Levels (i.e., regulatory action could be required at lower risk levels for a new source). In some cases a relocated source could present risk levels below the new Source Permit Risk Action Level and no further regulatory action would be required by CAO. In other cases, a relocated source could present risk levels that may exceed new source Risk Action Levels and would then be required to take action under the CAO program to reduce its source risk, incurring additional cost. This could mean a relocated source may be required to perform any of the following actions based on potential Risk Action Level exceedances:

- Apply for a Toxic Air Contaminant Permit Addendum to regulate source risk;
- Meet formal Community Engagement program requirements and fees³, or
- Install controls or change production to meet the required health standards for new sources.⁴

These Specific Activity Fees can be found under [OAR 340-216-8030 Table 3](#) (Attachment A) and the estimated fiscal impacts for these actions are summarized in the 2018 fiscal impact statement.⁵

An additional potential fiscal impact related to this proposed change would be the public health benefit from any reductions in toxic air contaminant emissions and risk from sources that could be required to meet the more stringent, health-protective new source Risk Action Levels. Descriptions of these benefits may be found in the 2018 fiscal impact statement.⁶

DEQ anticipates the overall impact of this proposed rule change will affect only a small number of sources in the regulated community, as there has only been one existing source that has relocated since CAO rule adoption.

² Attachment A. Cleaner Air Oregon Specific Activity Fees [OAR 240-216-8030 Table 3].

³ See page 25 of the Cleaner Air Oregon [Statement of Fiscal and Economic Impact](#) (2018) for Community Engagement requirements and Attachment A for Community Engagement Fees.

⁴ Attachment D. Pollution Control Equipment for Toxic Air Contaminant Emissions (2018).

⁵ Estimates for the cost of emissions analysis and risk assessments (Attachment C) and pollution control equipment (Attachment D) (2018).

⁶ See Pages 33-43 of the Cleaner Air Oregon [Statement of Fiscal and Economic Impact](#) (2018).

Aggregated Toxics Emissions Units [OAR 340-245-0020(54), -0050(4)(c), & -0060(4)(c)(B)]

The proposed rule changes regarding aggregated Toxics Emissions Units would require a source to include the emissions and risk from these aggregated TEUs in its source risk calculations and risk assessment. A source must determine that the risk from aggregated TEUs would not exceed the levels established in [OAR 340-245-8010 Table 1](#). Additionally, under the current rules, any source with risk levels in exceedance of the Source Permit Levels [[OAR 340-245-8010 Table 1](#)], and that has aggregated TEUs, would have monitoring, recordkeeping, and reporting requirements in their permits to ensure risk from these TEUs remains below the aggregated TEU levels. Therefore, in this case, no additional risk analyses would be required by these sources under the proposed rule changes, leading to no fiscal impact.

In some cases, inclusion of risk from aggregated TEUs in the final source risk, as proposed in the rule changes, could lead to additional costs if that added risk from the aggregated TEUs were to cause an exceedance of a Risk Action Level. This exceedance may then require a source to: apply for a Toxic Air Contaminant Permit Addendum that regulates source risk; meet formal Community Engagement program requirements and fees⁷; or install controls to meet the required health standards.⁸ The specific activity fees can be found under [OAR 340-216-8030 Table 3](#) (Attachment A) and the estimated fiscal impacts for these actions are summarized in the 2018 fiscal impact statement.⁹

Current rules provide for an automatic ten day approval when a source uses a Level 1 risk assessment to demonstrate risk from a new or modified aggregated TEU. The proposed rule changes remove the current automatic ten day approval. DEQ will strive to continue to meet this current approval timeline for these types of construction or modifications requests, but the proposed change could lead to minor delays in approval of construction or modification of these aggregated TEUs. DEQ does not have information to verify if any potential delays in construction or modification of an aggregated TEU would have a fiscal impact.

In general, the proposed rule changes related to aggregated TEUs could provide public health benefits from the inclusion of risk from these TEUs in the risk assessment, as well as the increased review and oversight required for new or modified aggregated TEUs. Descriptions of these benefits may be found in the 2018 fiscal impact statement.¹⁰

DEQ anticipates the overall impact of these proposed rule changes will affect only a small number of sources, as there have not been any sources requesting to include aggregated TEUs in their risk assessments since CAO rule adoption.

Risk Assessment Plan Submittal Timeline [OAR 340-245-0030(1)(d)(iv)]

This proposed change would allow DEQ to require an existing source to expedite the submittal of its final risk assessment for approval when DEQ anticipates the source risk may exceed the

⁷ Page 25 of the Cleaner Air Oregon [Statement of Fiscal and Economic Impact](#) (2018).

⁸ Attachment D. Pollution Control Equipment for Toxic Air Contaminant Emissions (2018).

⁹ Estimates for the cost of emissions analysis and risk assessments (Attachment C) and pollution control equipment (Attachment D) (2018).

¹⁰ Pages 33-43 of the Cleaner Air Oregon [Statement of Fiscal and Economic Impact](#) (2018).

Immediate Curtailment Risk Action Level, based upon the approved emissions inventory, modeling protocol, and risk assessment work plan (if applicable). This change only requires reducing the timeline from 60, 120, or 150 days (depending on the level of risk assessment) - there is no change in the work needed to produce the assessment. There are no fiscal impacts to sources related to program fees, but DEQ acknowledges there may be some cost associated with expediting this current program requirement timeline; however, there is no way for DEQ to estimate what these costs, if any, would be.

As of April 2021, DEQ has not approved any existing source risk assessments that exceed the Immediate Curtailment Risk Action Level. In general, DEQ expects this proposed change would affect only a small number of existing sources.

Risk Reduction Plan Submittal Timeline [OAR 340-245-0030(1)(i)] This proposed rule change would reduce the time required for an existing source with an approved risk assessment demonstrating risk in exceedance of the Toxics Best Available Control Technology Risk Action Level to submit its Risk Reduction Plan to DEQ from 120 to 30 days after approval of the risk assessment. Thus, the difference is only having to produce a plan in 30 days, instead of having 120 days to produce it—there is no change in the work needed to produce the plan. There are no fiscal impacts to sources related to program fees, but DEQ acknowledges there may be some cost associated with expediting this current program requirement timeline, depending on the nature and scope of required reduction activities. However, there is no way for DEQ to estimate what these costs, if any, would be. Extensions to submittal timelines, if approved by DEQ, can further mitigate potential increased costs.

As of April 2021, DEQ has only approved one existing source risk assessment, which did not include a Risk Reduction Plan, and therefore cannot anticipate how many existing sources this proposed change may affect.

Periodic Statewide Emissions Inventory [OAR 340-245-0040(2)(a)]

This proposed rule change removes the language limiting the periodic statewide CAO emissions inventory request to once every three years. The intention of the periodic statewide CAO emissions inventory is to have it coincide with the reporting years for EPA’s National Emissions Inventory as stated in the current rule language, which occurs on a triennial basis. This proposed change allows for flexibility to ensure that DEQ can adjust the reporting schedule if necessary to keep the statewide inventory schedule aligned with EPA’s National Emissions Inventory reporting. DEQ anticipates an adjustment of this schedule would primarily result in a delay or reduction in reporting requirements of the statewide inventory. This proposed change could have a positive fiscal impact to sources by potentially reducing the cost estimates described in the 2018 fiscal impact statement related to this emissions inventory reporting delay.¹¹ In the unexpected event that EPA alters the National Emissions Inventory reporting schedule to shorten the frequency between reporting periods, the proposed rule change would allow DEQ the flexibility to shift the statewide periodic emissions inventory to match this change at the federal level. DEQ acknowledges there would be fiscal impacts associated with any shortening of the periodic statewide emissions reporting for CAO; however, there is no way for DEQ to estimate

¹¹ See emissions inventory estimates in Attachment C. Cost to Facilities for Emissions Analysis and Risk Assessment (2018).

what these costs, if any, would be. Such costs would vary by company. This rule change could affect all facilities required to report during the statewide emissions inventory.

Existing Source Modifications Triggering New Source Review [OAR 340-245-0050(1)(b)]

These proposed rule changes would update the CAO requirements for when an existing source proposes changes that trigger New Source Review as required under OAR chapter 340, division 224. The current rules require that existing sources undertaking a modification that triggers Federal and State Type A New Source Review are required to perform a risk assessment, demonstrate compliance with the CAO program requirements, and include this compliance demonstration in their application for New Source Review. The proposed rules substitute the requirement for these existing sources to perform a risk assessment with a requirement only to submit, and obtain DEQ approval of, an emissions inventory specific to the modification prior to approval of the application for modification. DEQ will then use that updated source risk assessment when determining the source's priority to be called in to demonstrate CAO compliance, under OAR 340-245-0050(1)(a), but that review would be "disconnected" from the source working through the NSR approval process. The proposed rule changes also add a requirement that existing sources proposing modifications that trigger State Type B New Source Review OAR 340-245 must also submit an emissions inventory.

Including existing sources that propose modifications triggering State Type B New Source Review in the proposed rule changes could lead to additional costs of preparing an emissions inventory for the proposed modifications.¹² However, the proposed substitution of requiring an emissions inventory, instead of a full risk assessment, may provide a significant positive fiscal impact for existing sources proposing federal and State Type A NSR modifications – detailed estimates of the costs associated with these activities can be found in the 2018 fiscal impact statement.¹³ DEQ anticipates these fiscal impacts will affect a very limited number of sources – there have been only fourteen modifications triggering New Source Review over the past ten years.

Over time, all larger existing facilities will be required to perform CAO risk assessments, so cost changes in some cases are only related to timing of the work.

Level 1 Risk Assessment – Qualifying Criteria for Modeling [OAR 340-245-0050(8)(c) & -0200(2)(c)(C)(iii)]

These proposed rule changes stipulate when DEQ may not allow a Level 1 Risk Assessment to be used when performing a risk assessment. This could occur when aspects of a source's facility design or operations invalidate the assumptions used to develop the dispersion factors currently used for modeling in the Level 1 Risk Assessment under [OAR 340-245-8050 Table 5](#). DEQ is proposing these changes to ensure that if these Level 1 assumptions are not valid for a source choosing this level of risk assessment, DEQ will have authority to require a more technically appropriate risk assessment. For example, if a source has emission points lower than five meters, or there are exposure locations closer to an emissions point than 50 meters, DEQ may evaluate

¹² See emissions inventory estimates in Attachment C. Cost to Facilities for Emissions Analysis and Risk Assessment (2018).

¹³ Attachment C. Cost to Facilities for Emissions Analysis and Risk Assessment (2018).

the appropriateness of using the Level 1 risk assessment dispersion factors, and in some cases may require a source to use a Level 2 or Level 3 risk assessment. In these instances there could be fiscal impacts associated with increased Specific Activity Fees under [OAR 340-216-8030 Table 3](#), as well as any associated costs related to completing a higher level risk assessment as estimated in the 2018 fiscal impact statement.¹⁴ However, in some of these cases, DEQ may be able to provide Small Business Technical Assistance to some of these sources to help offset any additional costs incurred by requiring a higher level risk assessment.

DEQ anticipates the fiscal impact from these proposed changes would be very minor and affect only a very limited number of sources. Since program implementation, only two sources have requested to use a Level 1 risk assessment which did not meet the criteria of the assumptions used to create the dispersion factors. In both cases, DEQ was able to determine that a Level 1 risk assessment was appropriate to ensure representative emissions estimates for their risk assessments so a more complex risk assessment was not required.

Exempt Toxics Emissions Units [OAR 340-245-0060(3)(b)]

This proposed change would update the list of exempt TEUs under the CAO program. The removal and revision of some of these activities from the original rules could lead to negative fiscal impacts for sources. In some cases, a source may be required to demonstrate that an activity not exempt under the proposed rule change meets the criteria of an exempt TEU. In instances where an activity does not meet the criteria of an exempt TEU in the proposed rule, a source would be required to include the risk from this TEU in its risk assessment, either as an aggregated or significant TEU. In either case, DEQ anticipates this analysis could add a minor cost to sources.

Inclusion of risk from an activity that is no longer exempt due to the proposed rule change in the final source risk may lead to additional costs in the event that the additional risk causes the facility to exceed a Risk Action Level. This may require a source to apply for a Toxic Air Contaminant Permit Addendum that regulates source risk, meet formal Community Engagement program requirements and fees¹⁵, or install controls to meet the required health standards.¹⁶ These specific activity fees can be found under [OAR 340-216-8030 Table 3](#) and the estimated fiscal impacts for these actions are summarized in the 2018 fiscal impact statement.¹⁷

In general, the proposed rule changes related to exempt TEUs could provide public health benefits from the inclusion of risk from these TEUs in the Risk Assessment. Descriptions of these benefits may be found in the 2018 fiscal impact statement.¹⁸

Toxic Air Contaminant Permit Addendum Application [OAR 340-245-0100(3)]

This proposed change would reduce the number of paper copies of the Toxics Air Contaminant Permit Addendum application that a source would be required to submit to DEQ from two to

¹⁴ See Attachment A for Specific Activity Fees for Cleaner Air Oregon and Attachment C for Cost to Facilities for Emissions Analysis and Risk Assessment (2018).

¹⁵ Page 25 of the Cleaner Air Oregon [Statement of Fiscal and Economic Impact](#) (2018).

¹⁶ Attachment D. Pollution Control Equipment for Toxic Air Contaminant Emissions (2018).

¹⁷ Estimates for the cost of emissions analysis and risk assessments (Attachment C) and pollution control equipment (Attachment D) from the Cleaner Air Oregon [Statement of Fiscal and Economic Impact](#) (2018).

¹⁸ Pages 33-43 of the Cleaner Air Oregon [Statement of Fiscal and Economic Impact](#) (2018).

one. This proposed change would have a marginal positive fiscal impact to all sources required to apply for a CAO permit addendum.

Toxic Air Contaminant Permit Addendum Public Modifications: Public Notice & Fees [OAR 340-245-0100(8)(f)(A)&(B)]

These proposed changes would revise the public notice requirements for sources modifying their Toxic Air Contaminant Permit Addendum when the proposed modification would increase source risk. The proposed changes qualify the types of increases to source risk that would require Category III Public Notice under division 209, as well as remove the language excluding modifications that increase source risk from the Category I Public Notice requirements. These public notice requirements serve as the basis for the fees required to modify a source's CAO permit addendum, with Category III Public Notice requirements having the highest fees. These proposed changes would allow sources making modifications that increase source risk below specified levels (e.g., increases in source risk that do not exceed a Risk Action Level) to be subject to lower Categories of Public Notice, and thus reduced fees for an overall positive fiscal impact to sources.¹⁹

DEQ anticipates these proposed changes could have a moderate to significant impact in reducing costs as sources modify their operations and air permits.²⁰

Risk Reduction & Postponement of Risk Reduction [OAR 340-245-0130(3),(4),(6) and (7) & OAR 340-245-0150(1)]

These proposed changes would clarify the distinctions between chronic and acute Risk Reduction Plan timelines (these also apply to Voluntary Risk Reduction Plans); require full implementation of risk reduction, rather than initial implementation, by the timelines presently in rule; and provide a timeline and requirements for sources exceeding Immediate Curtailment Risk Action Levels. There would be no additional fiscal impacts to sources related to program fees, but DEQ acknowledges there may be some increased costs associated with expediting the current program requirement timelines; however, there is no way for DEQ to estimate what these costs, if any, would be.

DEQ estimates that this could provide public health benefits for addressing risk on a faster timeline. Descriptions of these benefits may be found in the 2018 fiscal impact statement.²¹

DEQ cannot anticipate how many existing sources this proposed change may affect.

Pollution Prevention [OAR 340-245-0140]

This proposed change would correct an error which currently requires an existing source with risk equal to, or greater than, the Toxics Best Achievable Control Technology Risk Action Level to provide a Pollution Prevention Plan to DEQ. An existing source should only be required to submit a Pollution Prevention Plan as part of its Risk Reduction Plan only when the source risk

¹⁹ See fees to modify a Toxic Air Contaminant Permit Addendum in Attachment B. ACDP Fees, Part 4. Specific Activity Fees [OAR 240-216-8020 Table 2].

²⁰ See fees to modify a Toxic Air Contaminant Permit Addendum in Attachment B. ACDP Fees, Part 4. Specific Activity Fees [OAR 240-216-8020 Table 2].

²¹ Pages 33-43 of the Cleaner Air Oregon [Statement of Fiscal and Economic Impact](#) (2018).

exceeds (but is not equal to) the TBACT Risk Action Level. This proposed change could have a positive fiscal impact by reducing the number of existing sources required to provide Pollution Prevention Plans—a source with risk equal to this risk action level would avoid the costs of preparing this type of plan.

DEQ anticipates this change could have moderate to significant positive fiscal impacts to sources, but depends on the number of existing sources requesting risk levels at the TBACT Risk Action Levels. DEQ has only approved one existing source risk assessment that did not exceed the TBACT Risk Action Levels and therefore cannot anticipate how many existing sources this proposed change may affect.

Regulated Air Pollutant Definition: Public Participation & Stationary Source Notification Requirements [OAR 340-200-0020(134)(d)]

This proposed rule change would revise the definition of “Regulated Air Pollutant” or “Regulated Pollutant” to include toxic air contaminants as regulated air pollutants in OAR 340 divisions 209 for Public Participation and 210 Stationary Source Notification Requirements. This change would require a source to provide toxic air contaminant emission estimates for chemicals currently listed under [OAR 340-245-8020 Table 2](#) when submitting a Notice of Intent to Construct for a construction or modification. Because sources are currently required to estimate criteria and hazardous air pollutant emissions for these notifications, DEQ anticipates the additional analysis for any additional toxic air contaminant emission estimates, beyond those pollutants that are also hazardous air pollutants, will have a range of fiscal impacts, from very minor to moderate, depending on the scope of the modification.

DEQ estimates that this change could provide public health benefits by addressing potential risks from toxic air contaminant emissions reported on a Notice of Intent to Construct submittal on a faster timeline than as currently only required to be reported in either the periodic statewide inventory or as in an existing source’s risk assessment. Descriptions of these benefits may be found in the 2018 fiscal impact statement.²² DEQ anticipates this proposed change could affect many sources, as Notice of Intent to Construct submittals occur regularly and at many sources.

Statement of Cost of Compliance

State and federal agencies

The CAO Program regulates emissions of toxic air contaminants from facilities within the state. Of the 2,701 facilities regulated by CAO, DEQ estimated that there were 24 state-owned permitted facilities and 7 federally owned facilities as of August 2019.²³ The rule changes proposed will not create any new requirements or create fiscal impacts that are specific to state or federally owned businesses. While there are no new fees associated with this rulemaking, state or

²² Pages 33-43 of the Cleaner Air Oregon [Statement of Fiscal and Economic Impact](#) (2018).

²³ Estimate of number of permitted facilities in the state as of August 2019 based on the [Hazard Index Fiscal Impact Statement](#) (2019).

federally owned permitted facilities may experience fiscal impacts as described above.

DEQ

There may be impacts to DEQ due to review of additional requirements and deliverables from facilities affected by these proposed rule changes. However, these impacts are estimated to be relatively small when compared to the overall resources already dedicated by DEQ to oversee all facilities regulated by Cleaner Air Oregon. Furthermore, many of the proposed rule changes that may have a fiscal impact are expected to impact a smaller subset of facilities than are currently subject to CAO rules. It is difficult to predict the effect these changes may have on DEQ's workload; some of the changes may increase workload, while others may result in decreases.

In the longer term, updates to address currently known inefficiencies in the program are intended to further streamline the CAO permitting process. If the proposed rule changes are adopted, DEQ may also realize some increase in efficiency by not having to maintain two separate sets of lists and update processes for air toxics for the two related programs; that is, Cleaner Air Oregon and the State Air Toxics program.

Local governments

As of August 2019, DEQ estimated that there were 69 facilities that were owned or operated by local governments that were permitted.²⁴ The proposed rule changes are not expected to create any new compliance requirements or create fiscal impacts that are specific to businesses operated by local governments. However, while there are no new fees or compliance costs associated with this rulemaking, facilities owned or operated by local governments may experience some limited fiscal impacts as described above for DEQ.

Public

The CAO program was designed to be protective of public health by reducing emissions of toxic air contaminants from facilities where those emissions create unacceptable risks. The proposed rule changes maintain the goal of protecting public health. In most cases, proposed changes in the rules will either result in no change or a slight improvement in public health outcomes.

Large businesses - businesses with more than 50 employees

DEQ estimated that there were 1,152 existing large businesses with air quality permits as of August 2019.²⁵ The proposed rule changes are not expected to create any new compliance requirements or create fiscal impacts that are specific to large businesses. However, while there are no new fees associated with this rulemaking, large businesses may experience fiscal impacts

²⁴ Estimate of number of permitted facilities in the state as of August 2019 based on the [Hazard Index Fiscal Impact Statement](#) (2019).

²⁵ Estimate of number of permitted facilities in the state as of August 2019 based on the [Hazard Index Fiscal Impact Statement](#) (2019).

if the facilities they operate fall into new regulatory categories as described under this proposed rulemaking.

Small businesses – businesses with 50 or fewer employees

DEQ estimated that there were 1,046 small businesses with air quality permits as of August 2019. There were an additional 503 facilities with air quality permits that did not list the number of employees they have, but would presumably fall into businesses with fewer than 50 employees based on types of business (gasoline stations and dry cleaners, for example).²⁶ The proposed rule changes do not create any new compliance requirements or create fiscal impacts that are specific to small businesses. While there are no new fees associated with this rulemaking, small businesses may experience fiscal impacts if the facilities they operate fall into the new regulatory categories under this proposed rulemaking. In some instances if small businesses experience a fiscal impact due to the proposed rule changes, DEQ may be able to provide Small Business Technical Assistance to help offset the additional costs incurred when a higher level risk assessment is required.

ORS 183.336 Cost of Compliance Effect on Small Businesses

1. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.

DEQ estimated that there were 1,046 small businesses in Oregon as of August 2019 that have 50 or fewer employees that have an AQ permit and are subject to the CAO rules. There were 503 additional facilities that did not list number of employees, but would presumably fall into businesses with fewer than 50 employees, based on types of business.²⁷ But only a small fraction of small businesses are expected to experience negative fiscal impacts from the proposed rule changes. Given that many of the proposed updates are conditional and subject to specific scenarios encountered by individual facilities, it is not possible for DEQ to determine an accurate range or approximation of the total number of small businesses that may be directly impacted by these rules.

2. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.

The proposed rule changes relating to emissions inventory reporting and requiring a single paper copy of the Toxic Air Contaminant Permit Addendum application will both have a minor benefit to all permitted facilities, including all small businesses, by reducing reporting and recordkeeping requirements. The other rule changes may have fiscal impacts from reporting, recordkeeping, and other administrative activities on some small businesses, if they fall into a

²⁶ Estimate of number of permitted facilities in the state as of August 2019 based on the [Hazard Index Fiscal Impact Statement](#) (2019).

²⁷ Estimate of number of permitted facilities in the state as of August 2019 based on the [Hazard Index Fiscal Impact Statement](#) (2019).

category that triggers additional compliance requirements, as described above and in the 2018 fiscal impact statement.

DEQ does not have information about how many more small businesses would be required to take action to reduce risks under the proposed rules, and therefore cannot accurately estimate an incremental increase in costs.

3. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.

The proposed rule changes may have fiscal impacts for projected equipment, supplies, labor on some small businesses, if they fall into a category that triggers additional compliance requirements, as described above and in the 2018 fiscal impact statement.

DEQ does not have information about how many more small businesses would be required to take action to reduce risks under the proposed rules, and therefore cannot accurately estimate an incremental increase in costs.

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

DEQ notified small businesses about the proposed rule development by email through GovDelivery, announcements on the DEQ website and at Rules Advisory Committee meetings. Small business representatives are on the Rules Advisory Committee and Fiscal Advisory Committee as part of this alignment rulemaking process. At the onset of the public comment period, DEQ will notify all businesses by email and through notices in the Secretary of State Bulletin.

Documents relied on for fiscal and economic impact

Document title	Document location
Cleaner Air Oregon Notice of Proposed Rulemaking (2018)	https://www.oregon.gov/deq/Rulemaking%20Docs/cao-pn2notice.pdf
Hazard Index Notice of Proposed Rulemaking (2019)	https://www.oregon.gov/deq/Rulemaking/Docs/CAOHI2019Notice.pdf

Attachment A. Cleaner Air Oregon Specific Activity Fees [OAR 240-216-8030 Table 3]


#	ACTIVITY	Permit Type			
		Title V	Standard ACDP	Simple ACDP	General or Basic ACDP
1	Existing Source Call-In Fee	\$10,000	\$10,000	\$1,000	\$500
2	New Source Consulting Fee	\$12,000	\$12,000	\$1,900	\$1,000
3	Submittal Document Modification Fee	\$2,500	\$2,500	\$500	\$250
Risk Assessment Fees					
4	Level 1 Risk Assessment - de minimis (no permit required)	\$1,500	\$1,500	\$1,000	\$800
5	Level 1 Risk Assessment – not de minimis	\$2,000	\$2,000	\$1,500	\$1,100
6	Level 2 Risk Assessment - de minimis (no permit required)	\$3,100	\$3,100	\$2,300	\$2,000
7	Level 2 Risk Assessment – not de minimis	\$3,600	\$3,600	\$2,800	\$2,300
8	Level 3 Risk Assessment - de minimis (no permit required)	\$8,800	\$8,200	\$5,300	\$4,500
9	Level 3 Risk Assessment – not de minimis	\$19,900	\$11,300	\$7,700	\$6,300
10	Level 4 Risk Assessment - de minimis (no permit required)	\$21,400	\$18,500	\$11,700	NA
11	Level 4 Risk Assessment – not de minimis	\$34,600	\$25,800	\$15,500	NA
Risk Above Risk Action Levels					
12	Risk Reduction Plan Fee	\$6,700	\$6,700	\$2,600	\$2,600
13	Air Monitoring Plan Fee (includes risk assessment)	\$25,900	\$25,900	NA	NA
14	Postponement of Risk Reduction Fee	\$4,400	\$4,400	\$4,400	\$2,000
15	TBACT/TLAER Review (per Toxic Emissions Unit and type of toxic air contaminant)	\$3,000	\$3,000	\$1,500	\$1,500
Other Fees					
16	TEU Risk Assessment – no permit mod	\$1,000	\$1,000	\$500	\$500
17	TEU Risk Assessment – permit mod	\$4,000	\$4,000	\$2,000	\$1,000
18	Level 2 Modeling review only for TEU approval	\$1,900	\$1,300	\$800	\$700



OAR 340-216-8030
Table 3
Cleaner Air Oregon Specific Activity Fees

#	ACTIVITY	Permit Type			
		Title V	Standard ACDP	Simple ACDP	General or Basic ACDP
19	Level 3 Modeling review only for TEU approval	\$3,800	\$3,800	\$3,500	\$3,500
20	Community Engagement Meeting Fee – high	\$8,000	\$8,000	\$8,000	\$8,000
21	Community Engagement Meeting Fee – medium	\$4,000	\$4,000	\$4,000	\$4,000
22	Community Engagement Meeting Fee - low	\$1,000	\$1,000	\$1,000	\$1,000
23	Source Test Review Fee (plan and data review) - complex	\$6,000	\$6,000	\$6,000	\$6,000
24	Source Test Review Fee (plan and data review) – moderate	\$4,200	\$4,200	\$4,200	\$4,200
25	Source Test Review Fee (plan and data review) - simple	\$1,400	\$1,400	\$1,400	\$1,400

Attachment B. ACDP Fees, Part 4. Specific Activity Fees [OAR 240-216-8020 Table 2]

 OAR 340-216-8020 Table 2 Air Contaminant Discharge Permits		
Part 4. Specific Activity Fees:		
Notice of Intent to Construct Type 2 ¹		\$720.00
Permit Modification	(A) Non-Technical ²	\$432.00
	(B) Basic Technical	\$540.00
	(C) Simple Technical	\$1,800.00
	(D) Moderate Technical	\$9,000.00
	(E) Complex Technical	\$18,000.00
Toxic Air Contaminant Permit Addendum Modification	(A) Non-Technical	\$432.00
	(B) Basic Technical	\$432.00
	(C) Simple Technical	\$1,440.00
	(D) Moderate Technical	\$7,200.00
	(E) Complex Technical	\$14,440.00
Major NSR or Type A State NSR Permit Modification		\$63,000.00
Modeling Review (outside Major NSR or Type A State NSR)		\$9,000.00
Public Hearing at Source's Request		\$3,600.00
State MACT Determination		\$9,000.00
Compliance Order Monitoring ³		\$180.00/month

Attachment C. Cost to Facilities for Emissions Analysis and Risk Assessment from the 2018 Cleaner Air Oregon Fiscal Impact Statement

Table 7 Cost to Facilities for Emissions Analysis and Risk Assessment		
Task	Simple	Complex
Emissions inventory	\$0*-\$5,000	\$60,000
Level 1 Assessment – Lookup Table Calculation Using Stack Heights and Exposure Location Distance	\$100	\$5,000
Level 2 Assessment – Screening modeling	\$5,000	\$35,000
Level 3 Assessment – Refined modeling	\$5,000	\$100,000
Level 4 Assessment – Health Risk Assessment	\$5,000	\$500,000

*DEQ is calculating and producing doing the emissions inventories for all of the approximately 2,200 sources that have Basic and General Air Contaminant Discharge Permits.

Attachment D. Pollution Control Equipment for Toxic Air Contaminant Emissions from the 2018 Cleaner Air Oregon Fiscal Impact Statement

Table 8 Pollution Control Equipment for Toxic Air Contaminant Emissions						
Control Device Type	Types of Pollutants it can reduce	Examples of facilities where this could be used	Initial costs^{28, 29}		Annual Operating Costs	
			low	high	low	high
Fabric filter (baghouse)	Particulate matter (PM), hazardous air pollutant (HAP) PM	Asphalt batch plants, concrete batch kilns, steel mills, foundries, fertilizer plants, and other industrial processes. Colored art glass manufacturers.	\$360,000 - \$18,500,000		\$180,000 - \$6,200,000	
Electrostatic precipitator (ESP)	PM, HAP PM	Power plants, steel and paper mills, smelters, cement plants, oil refineries	\$320,000 - \$10,000,000		\$100,000 - \$7,600,000	
Enclosure	Fugitive PM or volatile organic compounds (VOCs)	Any process or operation where emissions capture is required, i.e., printing, coating, laminating	\$14,000 - \$420,000		\$400 - \$10,000	
HEPA filter	Chrome emissions	chrome plating	\$13,000 - \$240,000		Application specific	
Wet scrubber (packed towers, spray)	Gases, vapors, sulfur oxides, corrosive	Asphalt and concrete batch plants; coal-burning power plants; facilities that emit sulfur oxides,	\$25,000 - \$750,000		\$19,000 - \$830,000	

²⁸ Costs are from examples in the EPA Air Pollution Control Cost Manual, Report No. 452/B-02-001, EPA Air Pollution Control Technology Fact Sheets, and information provided by permitted facilities and regulatory agencies.

²⁹ Costs are estimated based on best available information, but may be higher or lower than shown, depending on facility-specific conditions and business decisions.

**Table 8
Pollution Control Equipment for Toxic Air Contaminant Emissions**

Control Device Type	Types of Pollutants it can reduce	Examples of facilities where this could be used	Initial costs ^{28, 29}		Annual Operating Costs	
			low	high	low	high
chambers, Venturi scrubbers)	acidic or basic gas streams, solid particles, liquid droplets	hydrogen sulfide, hydrogen chloride, ammonia, and other gases that can be absorbed into water and neutralized with the appropriate reagent.				
Wet scrubber with mercury controls (carbon injection or flue gas desulfurization)	Gases, vapors, sulfur oxides, corrosive acidic or basic gas streams, solid particles, liquid droplets, mercury	Coal-fired power generation	Low end cost not available	High end cost \$516,803,000	Not available	
Semi-dry scrubber with carbon injection mercury controls	Gases, vapors, sulfur oxides, corrosive acidic or basic gas streams, solid particles, liquid droplets, mercury	Coal-fired power generation	Ranges not available, estimated cost: \$470,803,000	Ranges not available, estimated cost: \$74,807,000	Ranges not available, estimated cost: \$74,807,000	

**Table 8
Pollution Control Equipment for Toxic Air Contaminant Emissions**

Control Device Type	Types of Pollutants it can reduce	Examples of facilities where this could be used	Initial costs ^{28, 29}		Annual Operating Costs	
			low	high	low	high
Flue gas desulfurization with limestone injection	mercury	Coal-fired power generation	\$75,000,000-\$247,000,000		\$3,500,000	
Activated carbon injection	mercury	Coal-fired power generation	\$960,000-\$5,000,000		\$1,800,000	
Thermal oxidizer	VOCs, gases, fumes, hazardous organics, odors, PM	Landfills, crematories, inks from graphic arts production and printing, can and coil plants, hazardous waste disposal. semiconductor manufacturing	\$17,000 - \$6,200,000		\$3,500 - \$5,200,000	
Regenerative thermal oxidizer	VOCs	Paint booths, printing, paper mills, municipal waste treatment facilities	\$940,000 - \$7,700,000		\$110,000 - \$550,000	
Catalytic reactor	VOCs, gases	Landfills, oil refineries, printing or paint shops	\$21,000 - \$6,200,000		\$3,900 - \$1,700,000	
Carbon adsorber	Vapor-phase VOCs, hazardous air pollutants (HAPs)	Soil remediation facilities, oil refineries, steel mills, printers, wastewater treatment plants	\$360,000 - \$2,500,000		Not available	

**Table 8
Pollution Control Equipment for Toxic Air Contaminant Emissions**

Control Device Type	Types of Pollutants it can reduce	Examples of facilities where this could be used	Initial costs ^{28, 29}		Annual Operating Costs	
			low	high	low	high
Biofilter	VOCs, odors, hydrogen sulfide (H ₂ S), mercaptans (organic sulfides)	Wastewater treatment plants, wood products facilities, industrial processes	\$360,000 - \$3,600,000		Not available	
Fume suppressants	Chromic acid mist, chromium, cadmium and other plating metals	Chromic acid anodizing and chrome plating operations	Up to \$122,000		Not available	