



State of Oregon Department of Environmental Quality

Hazardous Waste Program Rulemaking Advisory Committee

Meeting Notes and Committee Recommendations
Oct. 18, 2018

Overview and purpose

The Oregon Department of Environmental Quality is convening advisory committee meetings to review proposed revisions to Oregon's Hazardous Waste program rules and give input on the potential fiscal impacts to businesses. The committee is called the Hazardous Waste Fees Rulemaking Advisory Committee. After considering the proposed fee increase options, DEQ asked the committee:

- Will the rule have a fiscal impact?
- If so, what is the extent of the fiscal impact?
- Will the rule have a significant adverse impact to small businesses (fewer than 50 employees)?
- If so, how can DEQ reduce the economic impact of the rule to small business?

DEQ proposes increasing fees as part of a multi-phase approach to stabilize funding over the next seven years.

- In **phase one**, the current rulemaking, DEQ is considering increasing annual generator and permit fees.
- In **phase two**, DEQ will consider changing statutory fees through the Oregon Legislature and or rule fee changes.
- In **phase three**, DEQ will consider changing statutory fees through the Oregon Legislature and possibly rule fee changes to secure funding by 2026.

The proposed fee increases, along with any additional recommended streamlining efforts such as staff reductions, should help provide funding for hazardous waste work required by the U.S. Environmental Protection Agency and ensure proper hazardous waste management in Oregon. These changes will better position Oregon to maintain its EPA state hazardous waste program authorization.

DEQ will seek public comment on the proposed fee increases when it opens a formal public comment period later this year. DEQ will consider all comments before preparing a final rule proposal package for the Oregon Environmental Quality Commission to consider in mid-2019.

Rulemaking links

- [Hazardous waste fees 2019 rulemaking webpage](#)
- [Advisory committee charter](#)
- [Past meeting agendas and presentations](#)

October committee meeting

DEQ held the third and final committee meeting on Oct. 18, 2018, from 8 a.m. to 3 p.m. in its Portland headquarters.

 <h2 style="text-align: center;">Meeting Participation</h2>	
Name	Affiliation
Committee Members	
Committee members who did not attend the meeting in person are noted with an asterisk*	
Keri Bishop	Oregon Health & Sciences University
Jim Denson	Chemical Waste Management of the Northwest
Michael Doherty	Lotus Precision Coating Inc.
Lori Grant	Oregon Environmental Council
Bruce Johnson	Lonza Group (Bend Research, Inc.)
Marjorie Martz-Emerson	Coyote & Chirp Biosphere, LLC
Matthew Sauvageau	Safety-Kleen Systems, Inc. (Clean Harbors/Emerald Services)
Mike Standen*	Valliscor LLC
Geoffrey B. Tichenor	Stoel Rives LLP for Oregon Business & Industry
Non-committee, DEQ members at the meeting	
Jeannette Acomb	Project Lead, Senior Hazardous Waste Policy Analyst
Sharon Al-Najran	Project Administrative Assistant
Abby Boudouris	Senior Legislative Analyst, Office of Policy and Analysis
Killian Condon	Generator Rule Lead, Hazardous Waste Inspector
Rich Duval	Permit Rule Lead, Hazardous Waste Inspector
Lydia Emer	Land Quality Administrator
Sandra James	Fiscal Analyst, Office of Policy and Analysis
Sue Langston	Facilitator
David Livengood	Sponsor, Headquarters Hazardous Waste Program Manager
Denise Miller	Project Coordinator
Eileen Naples	Senior Hazardous Waste Policy Analyst
Audrey O'Brien	Hazardous Waste Manager, Committee Advisor



Meeting Participation

Name	Affiliation
Members of the public at the meeting	
Margaret Olson	EPA State Coordinator

Meeting discussion summary

The Oct. 18, 2018 Hazardous Waste Rulemaking Advisory Committee meeting addressed treatment, storage and disposal facility permit fee increase proposals, as well as annual generator fee increase proposals.

Presentation – Permit Fee Proposals

DEQ shared with the committee an overview of proposed fee increases, including an annual compliance determination fee, an increased permit modification fee and an annual administrative fee.

- DEQ estimates that it needs to generate an additional \$838,000 annually by 2026 to fully fund the hazardous waste treatment, storage and disposal permit program. The program’s current annual permit revenue is \$362,500.
- DEQ proposes increasing the annual treatment, storage and disposal facility permit fee by 31 percent starting July 2019. Currently, DEQ processes permit modifications as defined by rule as low, medium or high. DEQ proposes raising all classes of permit modification fees to high workload as defined by rule, which are irregular sources of revenue, for all permit modification classes. Finally, DEQ proposes amending annual fees to add a new operating treatment, storage and disposal administrative fee of \$5.50 per metric ton.
- At this time, DEQ is unable to include in this rulemaking other potential permit fee increases, including cost recovery, permit renewals and consideration for adding an economic index and fees in statute.

Discussion: DEQ asked the committee to discuss pros and cons associated with the permit proposal, and asked the committee to address any additional considerations. DEQ asked the committee to address potential fiscal impacts associated with the proposed permit fee increase. Highlights of the committee members’ discussion include:

- Committee members asked if DEQ is aware of how a permit fee increase will effect treatment, storage and disposal facilities’ competitiveness in Oregon relative to other states. *DEQ realizes increasing fees may have an impact. However, DEQ is not aware of*

the direct negative impacts to competitiveness in Oregon compared to facilities in other states.

- Committee members observed the impacts associated with the proposed permit fee increase will affect permitted facilities and generators, including some small businesses with fewer than 50 employees. *DEQ considered the potential impact to small businesses in its proposal by adding in smaller increases over multiple years. DEQ thanked the committee for the consideration.*

Presentation – Generator Fee Proposals

DEQ shared an overview of proposals to increase the hazardous waste generator fee. This included phased-in increases to the small and large quantity generator annual activity verification fees, phased-in increase to the management method factors, and adding a new management method factor to encourage cleaning up brownfields and abandoned industrial properties.

- DEQ estimates it needs an additional \$2 million per year by 2026 to fully fund the hazardous waste program at current staffing levels. The program's current annual revenue is \$1.5 million.
- DEQ proposes a phased-in 80 percent increase to small quantity generator and large quantity generator annual activity verification fees. With phase-in starting July 2019, by 2021 small quantity generator fees will increase from \$300 to \$540 and large quantity generator fees will increase from \$525 to \$945. By phasing in the increase, DEQ hopes to limit the impact on all businesses.
- In addition, DEQ proposes a phased-in 70 percent increase to Management Method Factors by 2024. DEQ also proposes adding a new Management Method Factor of 0.00 for hazardous waste generated by grant-funded cleanup projects (for example, brownfields).
- The proposed generator fee increase will not fully fund the additional \$2 million needed per year by 2026. DEQ is proposing, based on committee feedback from the second advisory meeting, a smaller fee increase with this rulemaking to meet the regulated businesses' financial planning needs. DEQ will most likely request statutory changes during a later phase to address the remaining revenue gap.
- In this rulemaking, DEQ is unable to address other potential changes to the generator fee increase, including a change to the statutory-based \$32,500 fee cap, an increase to the \$130 per metric ton, or adding an economic index.

Discussion: DEQ asked the committee to discuss pros and cons associated with the proposed generator fee increases, and asked the committee to discuss any additional considerations.

- Committee members asked DEQ to clarify what DEQ can change through rulemaking versus statutory change. *DEQ responded that it can change the management method factor and the annual activity verification fee through a rulemaking as approved by Oregon's Environmental Quality Commission. Other aspects of the generator fee,*

including the fee per ton and the generator fee cap, are set in statute and require legislative approval to change.

- Committee members asked if DEQ had considered a graduated cap where small and mid-size companies are subject to smaller caps than larger companies. *DEQ responded changes to the cap requires legislative approval and statutory change. DEQ will consider changes to the cap and this suggestion in the next phase of this rulemaking. DEQ is currently proposing changes via rule.*
- Committee members asked how DEQ will operate and make adjustments if it does not receive the proposed increase by 2026. *DEQ responded the program will continue to carefully manage the budget, hold positions vacant, as needed, and identify additional cost-cutting measures. This may result in a reduced level of service to facilities.*
- Committee members asked how DEQ plans to allocate revenue the proposed fee increase generates. *DEQ responded the majority of its budget is allocated to staff salary and benefits, and some resources are budgeted for indirect costs such as building leases.*
- One committee member noted that “time is money” and it may cost some facilities more to wait for an inspection or permit review because of DEQ’s understaffing than it would to pay increased generator and permit fees. *DEQ thanked the committee member for this observation and noted that, while it is possible without a fee increase, DEQ may not have the bandwidth to respond as quickly to requests for assistance, although we continue to seek efficiencies wherever possible.*
- Committee members asked DEQ to explain what program elements the proposed generator fee increase would cover. *DEQ responded that the proposed increase will fund inspection, complaint investigation, compliance technical assistance, data management and policy analysis. A State Fire Marshal fee contributes funds to DEQ’s other hazardous waste technical assistance work.*
- The committee noted DEQ’s proposed hazardous waste generator fee increase considers the fiscal impact of increased fees on generators and attempts to address this impact by phasing in the increase over time.
- Committee members noted that, in some cases, proposed generator fee and management method fee increases may encourage generators to minimize the amount of hazardous waste produced.
- One committee member requested the full-time equivalent breakdown associated with the proposed fee increases. *DEQ responded that, as presented in the first committee meeting, the proposed fees would help maintain the 19 current full-time equivalent staff. This includes three permit staff, five inspectors, two policy staff, one toxic reduction coordinator, two invoice and reporting staff, three technical assistance providers and three prorated program managers. The program currently has three vacancies.*
- Committee members asked whether DEQ considered charging conditionally exempt generators a small fee to help close the projected budget shortfall by 2026. *DEQ may consider charging conditionally exempt generators a small fee during future rulemakings. However, DEQ’s current analysis indicated the added workload associated with processing these invoices would increase staffing costs above the potential revenue collected. These generators currently contribute a small fee to the State Fire Marshal fee,*

and some of this fee partially funds DEQ's hazardous waste technical assistance program.

Presentation – Fiscal Impacts of the Permit and Generator Fee Proposals

For the purpose of this rulemaking, Oregon defines small businesses as having fewer than 50 employees.

Discussion: DEQ asked the committee to provide feedback on potential impacts of the proposed hazardous waste permit and generator fee increases on small businesses in Oregon.

- Several committee members observed the proposed hazardous waste permit and generator fee increase, as proposed, is unlikely to have an adverse impact on small businesses in Oregon. However, more information is needed about small and medium-sized businesses to fully gauge the potential impact. *DEQ thanked the committee for this feedback and noted that the public notice is an opportunity for stakeholders to provide more input on the anticipated impact of the proposed rulemaking.*
- Committee members asked DEQ to consider how an increase in permit fees may impact hazardous waste generators in Oregon. *DEQ responded that the majority (80 percent to 90 percent) of generators the fee increase are out-of-state.*
- Committee members asked DEQ to consider the best- and worst-case fiscal scenarios for generators the fee increases may affect. *DEQ is analyzing data and anticipates a range of scenarios associated with a generator fee increase will be in the fiscal impact section of the public notice.*
- Committee members asked how DEQ will communicate the proposed permit and generator fee increases to business stakeholders. *DEQ responded it will issue a public notice as part of the rulemaking process. DEQ will also notify registered generators and the public who signed up for hazardous waste GovDelivery when the notice is available for comment.*
- Committee members asked DEQ to consider how federal grant schedules might affect academic institutions and the ability of nonprofits to pay an increased generator fee. *DEQ responded it will welcome additional feedback on this topic from academic institutions and other stakeholders whose ability to pay fees is impacted by federal funding cycles or other external funding sources during the public comment period later this year.*
- Committee members asked DEQ to consider a hardship factor for small businesses and other generators that may be unable to accommodate the proposed generator fee increase schedule. *DEQ responded a current mechanism is in place to address this need, upon request, to work on a case-by-case basis to accommodate generators unable to pay DEQ fees.*