



State of Oregon Department of Environmental Quality
Hazardous Waste Fee Rulemaking
Advisory Committee Charter

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Background

The Environmental Protection Agency delegates authority to the Department of Environmental Quality to operate the federal Resource and Conservation Recovery Act hazardous waste program in Oregon, consistent with federal requirements and performance partnership agreement commitments. DEQ's hazardous waste program faces a deficit in funding revenues that prohibits continuing current service levels and meeting EPA commitments without additional fee revenues.

DEQ is looking at several fee-funding alternatives in a multi-year rulemaking to address this deficit. DEQ is convening the Hazardous Waste Fee Rulemaking Advisory Committee to inform decisions on an equitable fee structure to support the program. Committee meetings will start in August 2018. There will be additional meetings over the summer of 2018 to review and provide input into DEQ's proposed fees increase. Once advisory committee meetings are complete, DEQ will finalize the draft rules and present them for public comment.

During the public comment period, DEQ will consider all comments. DEQ will take a final proposed fee rule to the Environmental Quality Commission in mid-2019.

Objective

The advisory committee's objective is to provide stakeholders with an opportunity to provide input on the proposed rule and to consider what the proposed rules' fiscal and economic impact might be.

Scope of work

The committee will discuss and provide input on fee funding alternatives to support the state program. The committee may:

- Review program budget, funding, and fee structures;
- Review and consider EPA program authorization commitments and stakeholder needs;
- Evaluate other state program funding structures, as relevant; and
- Consider equitability, sustainability, and needs of the regulated community

Fiscal and economic impact

As ORS 183.333 requires, DEQ will ask the committee to consider:

- Whether the proposed rules will have a fiscal impact, and if yes, what the extent of that impact will be; and
- Whether the proposed rules will have a significant adverse impact on small businesses, and if so, provide recommendations on how DEQ can comply with ORS 183.540¹ by considering alternative approaches.

¹ If the statement of cost of compliance effects on small businesses required by ORS 183.335 (2)(b)(E) shows that a rule has a significant adverse effect upon small business, to the extent consistent with the public health and safety purpose of the rule, the agency shall reduce the economic impact of the rule on small business by: (1) Establishing differing compliance or reporting requirements or time tables for small business; (2) Clarifying, consolidating or simplifying the compliance and reporting requirements under the rule for small business; (3) Utilizing objective criteria for standards; (4) Exempting small businesses from any or all requirements of the rule; or (5) Otherwise establishing less intrusive or less costly alternatives applicable to small business

Out of scope

The advisory committee will not consider changes to other hazardous waste program revenues or changes that would require statutory changes in Phase I of this rulemaking. Only generator fees and hazardous waste permitted Treatment, Storage, and Disposal fees are included in the scope of this phase I of the multi-year rulemaking.

Roles

DEQ expects the advisory committee members to evaluate information for accuracy and relevance to conditions in Oregon. Members should also contribute information and recommendations based on their related professional experience.

Advisory Committee Structure

David Livengood, Hazardous Waste and Tanks Program Manager, is the project sponsor. Sue Langston, Agency Performance Manager, will facilitate the committee's work.

Committee meetings

All committee meetings will be:

- Open to the public
- Advertised on DEQ's webpage and through GovDelivery email notifications
- Scheduled 9:00 am to 4:00 pm unless otherwise stated in the meeting agenda
- Held in DEQ's Portland Headquarters office: 700 NE Multnomah Street, 6th floor

DEQ expects the committee to meet two to three times:

- **Meeting 1:** Aug. 7 or 8, 2018 – 9 am to 4 pm (*one hour lunch break, on your own*)
- **Meeting 2:** Sept. 11 or 12, 2018 – 9 am to 4 pm (*one hour lunch break, on your own*)
- **Meeting 3:** Oct. 17 or 18, 2018 – 9 am to 4 pm (*one hour lunch break, on your own*)

There may be a possible breakout-meeting track for permitted hazardous waste fees.

Meeting materials

DEQ will not prepare formal meeting minutes or a formal committee report. Meeting summary notes will document the highlights of committee discussions and the different perspectives and recommendations of committee members.

DEQ will post meeting materials on the advisory committee website.

Responsibilities

Facilitator

- Facilitate the conversation so the committee stays focused on the agenda and on intended outcomes of the meeting
- Ensure that all perspectives are heard
- Ensure that all members adhere to the process and ground rules
- Facilitate comments and input from the public when relevant

Committee members

- Each take responsibility for the success of the meeting;
- Attend every meeting to ensure continuity throughout the process. The primary member may assign an alternate if needed. It is each committee member's responsibility to brief the alternate fully on all relevant issues and prior committee discussions. Only one member, the primary or alternate, may participate in a meeting
- Notify Facilitator of known absence in advance
- If not at a meeting, agree to relinquish the opportunity to comment, and understand that those present may reach a decision. (If those present need more input, the committee may wait for additional input.)
- Provide DEQ staff with copies of relevant research and documentation cited during the meeting
- Stay focused on the specific topics for each meeting
- Consult regularly with constituencies to inform them on the process and gather their input
- Comment constructively and in good faith
- Treat everyone and his or her opinions with respect
- Allow one person to speak at a time
- Be courteous by not engaging in sidebar discussions
- Avoid representing to the public or media the views of any other committee member or the committee as a whole

Alternate members

Alternate members will not participate in the same meeting as their principal member.

Non-committee member attendees

Advisory committee meetings are open to the public. However, people who are not members of the committee are not entitled to participate in meetings. The public will have an opportunity to comment on the proposed rules later in this rulemaking.

Support

The committee support will post:

- Agenda and meeting materials on the committee webpage a week in advance
- Draft meeting summaries of decisions within two weeks of subject meeting

Decision making

DEQ will not seek consensus positions from the committee or ask the committee to vote on specific issues. DEQ will ask each individual committee member for input and recommendations.

DEQ will use the committee's discussions in forming draft recommendations. The draft recommendations will be part of the required formal notice process that includes public hearings and an opportunity for the public to comment.

When information is shared with the group, there will be a reasonable timeframe for comments.

Membership

In convening this committee, DEQ selected members that reflect the range of entities these rules affect, both directly and indirectly. Representatives should be able to consider the technical, policy, fiscal and economic impact of the program for the entity and interests they represent. DEQ endeavored to include members to represent:

- Statewide geographically
- Regulated parties' representatives
- Environmental interests
- Large quantity generators, as well as small quantity generators and small businesses
- Permitted hazardous waste Treatment, Storage, and Disposal facilities

DEQ will post a roster of the committee members on the committee website.

Recordkeeping

All committee and any subcommittee records, formal and informal, become part of the rulemaking record. All DEQ rulemaking records are available for public inspection and copying. DEQ does not assume responsibility for protecting proprietary or confidential business information shared during committee or subcommittee meetings. However, the private documents of individual committee members generally are not considered public records if DEQ does not have copies.

DEQ captures and maintains committee agendas, materials, summaries, committee reports and recommendations. DEQ will destroy the committee record 10 years after Oregon repeals the related rules.

Expenses

DEQ is able to reimburse any in state, out-of-town (*50 miles or greater*) committee members for travel expenses, if DEQ approves them in advance.

Changes to charter

This charter may change based on a recommendation of the lead DEQ Hazardous Waste Program Manager. Conditions that may warrant a charter update are recognizing unforeseen issues. The rulemaking team will review and, if warranted, update this Charter.

Alternative formats

DEQ can provide documents upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request a document in another format or language, call DEQ in Portland at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696; or email deqinfo@deq.state.or.us.