



State of Oregon Department of Environmental Quality

# Hazardous Waste Federal Rules Alignment 2021

## Draft Rules – Edits Highlighted Modernizing Ignitable Liquids Determinations

**Federal rule language:** 40 CFR 261.21(a)(1):

“It is a liquid, other than a solution containing less than 24 percent alcohol by volume and at least 50 percent water by weight, that has a flash point less than 60 °C (140 °F), as determined by using one of the following ASTM standards:...”

**Proposed state-only language:** OAR 340-102-0010(2)(v):

(v) “Ignitability” or “Exhibits the characteristic of ignitability,” as defined when used in 40 C.F.R. §§ 261.21 and as incorporated by reference under 260.11 is replaced with “It is a liquid, other than a solution containing less than 24 percent ethyl alcohol by volume and at least 50 percent water by weight, that has a flash point less than 60 °C (140 °F), as determined by using one of the following ASTM standards:...”;

Amendment for state only definition.....

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### **Key to Identifying Changed Text:**

~~Deleted Text~~

New/inserted text (highlight for emphasis)

**Division 100  
HAZARDOUS WASTE MANAGEMENT**

340-100-0010

### **Definitions**

(1) The definitions in this rule modify, or are in addition to, the definitions contained in 40 C.F.R. § 260.10 and as specified below.

(2) When used in divisions 100 to 110 and 120 of this chapter, the following terms have the meanings given below:

(a) "Administrator" means:

(A) The "Department", except as specified in paragraph (2)(a)(B) or (C) of this rule;

(B) The "Commission," when used in 40 C.F.R. §§ 261.10 and 261.11; or

(C) The Administrator of the U.S. Environmental Protection Agency, when used in 40 C.F.R. § 262.50.

(b) "Aquatic LC50" (median aquatic lethal concentration) means that concentration of a substance which is expected in a specific time to kill 50 percent of an indigenous aquatic test population (e.g., fish, insects or other aquatic organisms). Aquatic LC50 is expressed in milligrams of the substance per liter of water.

(c) "Beneficiation of Ores and Minerals" means upgrading ores and minerals by purely physical processes (e.g., crushing, screening, settling, flotation, dewatering and drying) with the addition of other chemical products only to the extent that they are a non-hazardous aid to the physical process (such as flocculants and deflocculants added to a froth-flotation process).

(d) "Collection." See "Storage."

(e) "Commission" means the Environmental Quality Commission.

(f) "Demilitarization" means all processes and activities at the Umatilla Chemical Depot (OR 6213820917) and Umatilla Chemical Agent Disposal Facility (ORQ 000009431) from February 12, 1997, through Department approval of the closure of all permitted treatment, storage and disposal units and facility-wide corrective action.

(g) "Demilitarization Residue" means any solid waste generated by demilitarization processes and activities as defined in 340-100-0010(2)(f), except for:

(A) Waste streams generated from processes or activities prior to the introduction of nerve or blister agent into the treatment unit; and

(B) Waste steams generated from maintenance or operation of non-agent contaminated process utility systems.

(h) "Department" means the Department of Environmental Quality except it means the Commission when the context relates to a matter solely within the authority of the Commission such as: The adoption of rules and issuance of orders thereon pursuant to ORS 466.020, 466.075, and 466.510; the making of findings to support declassification of hazardous wastes pursuant to ORS 466.015(3); the issuance of exemptions pursuant to ORS 466.095(2); the issuance of

disposal site permits pursuant to ORS 466.140(2); and the holding of hearings pursuant to ORS 466.130, 466.140(2), 466.170, 466.185, and 466.190.

(i) "Director" means:

(A) The "Department", except as specified in paragraph (2)(i)(B) of this rule; or

(B) The "permitting body", as defined in section (2) of this rule, when used in 40 C.F.R. §§ 124.5, 124.6, 124.8, 124.10, 124.12, 124.14, 124.15 and 124.17.

(j) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste or hazardous substance into or on any land or water so that the hazardous waste or hazardous substance or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters of the state as defined in ORS 468B.005.

(k) "Dry Cleaning Facility" means any facility as defined by 40 C.F.R. § 260.10 and adopted under OAR 340-100-0002, located in this state that is or was engaged in dry cleaning apparel and household fabrics for the general public, and dry stores, other than:

(A) A facility located on a United States military base;

(B) A uniform service or linen supply facility;

(C) A prison or other penal institution; or

(D) A facility engaged in dry cleaning operations only as a dry store and selling less than \$50,000 per year of dry cleaning services.

(l) "Dry Cleaning Operator" means a person who has, or had, a business license to operate a dry cleaning facility or a business operation that a dry cleaning facility is a part of or any person that owns the dry cleaning business, leases the operation of the dry cleaning business from the owner, or makes any other kind of agreement or arrangement whereby they operated the dry cleaning business.

(m) "Dry Cleaning Wastewater" means water from the solvent/water separation process of the dry cleaning machine.

(n) "EPA" or "Environmental Protection Agency" means the Department of Environmental Quality.

(o) "EPA Form 8700-12" means EPA Form 8700-12 as modified by the Department.

(p) "Existing Hazardous Waste Management (HWM) Facility" or "Existing Facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980, or is in existence on the effective date of statutory or regulatory changes under Oregon law

that render the facility subject to the requirement to have a permit. A facility has commenced construction if:

(A) The owner or operator has obtained the federal, state, and local approvals or permits necessary to begin physical construction; and either

(B)(i) A continuous on-site, physical construction program has begun; or

(ii) The owner or operator has entered into contractual obligations - which cannot be canceled or modified without substantial loss - for physical construction of the facility to be completed within a reasonable time.

(q) "Extraction of Ores and Minerals" means the process of mining and removing ores and minerals from the earth.

(r) "Generator" means the person who, by virtue of ownership, management or control, is responsible for causing or allowing to be caused the creation of a hazardous waste.

(s) "Hazardous Substance" means any substance intended for use which may also be identified as hazardous under division 101.

(t) "Hazardous Waste" means a hazardous waste as defined in 40 C.F.R. § 261.3, OAR 340-101-0033 and 340-102-0011.

(u) "Identification Number" means the number assigned by DEQ to each generator, transporter, and treatment, storage and disposal facility.

(v) "Ignitability" or "Exhibits the characteristic of ignitability," as defined when used in 40 C.F.R. §§ 261.21 and as incorporated by reference under 260.11 is replaced with "It is a liquid, other than a solution containing less than 24 percent ethyl alcohol by volume and at least 50 percent water by weight, that has a flash point less than 60 °C (140 °F), as determined by using one of the following ASTM standards:..."

~~(v)~~ (w) "License." See "Permit."

~~(w)~~ (x) "Management Facility" means a hazardous waste treatment, storage or disposal facility.

~~(x)~~ (y) "Off-site" means any site which is not on-site.

~~(y)~~ (z) "Oxidizer" means any substance such as a chlorate, permanganate, peroxide, or nitrate, that yields oxygen readily or otherwise acts to stimulate the combustion of organic matter (see 40 C.F.R. § 173.151).

~~(z)~~ (aa) "Permitting Body" means:

(A) The Department of Environmental Quality, when the activity or action pertains to hazardous waste storage or treatment facility permits; or

(B) The Environmental Quality Commission, when the activity or action pertains to hazardous waste disposal facility permits.

(~~aa~~bb) "Permit" or "License" means the control document that contains the requirements of ORS Chapter 466 and OAR 340, divisions 104 to 106 and 120. Permit includes permit-by-rule and emergency permit. Permit does not include any permit which has not yet been the subject of final Department action, such as a draft permit or a proposed permit.

(~~bb~~cc) "RCRA" or "Resource Conservation and Recovery Act", when used to refer to a federal law, means Oregon law.

(~~ee~~dd) "RCRA Permit" means Oregon hazardous waste management facility permit.

(~~dd~~ee) "Regional Administrator" means:

(A) The "Department", except as specified in paragraph (2)(dd)(B) or (C) of this rule;

(B) The "permitting body", as defined in section (2) of this rule when used in 40 C.F.R. §§ 124.5, 124.6, 124.8, 124.10, 124.12, 124.14, 124.15 and 124.17;

(C) The "Commission", when used in 40 C.F.R. §§260.30 through 260.41.

(~~ee~~ff) "Residue" means solid waste as defined in 40 C.F.R. § 261.2.

(~~ff~~gg) "Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

(~~gg~~hh) "Spill" means unauthorized disposal.

(~~hh~~ii) "Storage" or "Collection" means the containment of hazardous waste either on a temporary basis or for a period of years, in a manner that does not constitute disposal of the hazardous waste.

(~~ii~~jj) "Waste Management Unit" means a contiguous area of land on or in which waste is placed. A waste management unit is the largest area in which there is a significant likelihood of mixing of waste constituents in the same area. Usually, but not always, this is because each waste management unit is subject to a uniform set of management practices (e.g., one liner and leachate collection and removal system). The provisions in the OAR 340, Division 104 regulations (principally the technical standards in Subparts K–N of 40 CFR Part 264) establish requirements that a person subject to these rules must implement on a unit-by-unit basis.

(3) When used in divisions 100 to 106, 109, 113 and 142 of this chapter, the following terms have the meanings given below:

(a) "Aeration" means a specific treatment for decontaminating an empty volatile substance container by removing the closure and placing the container in an inverted position for at least 24 hours.

(b) "Beneficial Use" means returning without processing unused pesticide product (e.g., pesticide equipment rinsings, excess spray mixture) or empty pesticide containers to the economic mainstream as a substitute for raw materials in an industrial process or as a commercial product (e.g., melting a container for scrap metal).

(c) "Department" means the Department of Environmental Quality.

(d) "Empty Container" means a container from which:

(A) All the contents have been removed that can be removed using the practices commonly employed to remove materials from that type of container; and

(B)(i) No more than one inch of residue remains on the bottom of the container; or

(ii) No more than three percent of the total capacity of the container remains in the container if the container is less than or equal to 110 gallons in size; or

(iii) No more than 0.3% of the total capacity of the container remains in the container or inner liner if the container is greater than 110 gallons in size; or

(iv) If the material is a compressed gas, the pressure in the container is atmospheric.

(e) "Household Use" means use by the home or dwelling owner in or around households (including single and multiple residences, hotels and motels).

(f) "Jet Rinsing" means a specific treatment for an empty container using the following procedure:

(A) A nozzle is inserted into the container, or the empty container is inverted over a nozzle such that all interior surfaces of the container can be rinsed; and

(B) The container is thoroughly rinsed using an appropriate solvent.

(g) "Multiple Rinsing" means a specific treatment for an empty container repeating the following procedure a minimum of three times:

(A) An appropriate solvent is placed in the container in an amount equal to at least 10% of the container volume; and

(B) The container is agitated to rinse all interior surfaces; and

(C) The container is opened and drained, allowing at least 30 seconds after drips start.

(h) "Pesticide" means any substance or combination of substances intended to defoliate plants or to prevent, destroy, repel, or mitigate insects, fungi, weeds, rodents, or predatory animals. Pesticide includes but is not limited to defoliants, desiccants, fungicides, herbicides, insecticides, and nematocides as defined by ORS 634.006.

(i) "Pesticide Equipment" means any equipment, machinery or device used in pesticide manufacture, repackaging, formulation, bulking and mixing, use, cleaning up spills, or preparation for use or application of pesticides, including but not limited to aircraft, ground spraying equipment, hoppers, tanks, booms and hoses.

(j) "Pesticide Residue" is a waste that is generated from pesticide operations and pesticide management, such as from pesticide use (except household use), manufacturing, repackaging, formulation, bulking and mixing, and spills.

(A) Pesticide residue includes, but is not limited to, unused commercial pesticides, tank or container bottoms or sludges, pesticide spray mixture, container rinsings and pesticide equipment washings, and substances generated from pesticide treatment, recycling, disposal, and rinsing spray and pesticide equipment.

(B) Pesticide residue does not include pesticide-containing materials that are used according to label instructions, and substances such as, but not limited to, treated soil, treated wood, foodstuff, water, vegetation, and treated seeds where pesticides were applied according to label instructions. Pesticide residue does not include wastes that are listed in 40 C.F.R. Part 261 Subpart D or that exhibit one or more of the characteristics identified in 40 C.F.R. Part 261 Subpart C.

(k) "Public-Use Airport" means an airport open to the flying public which may or may not be attended or have service available.

(l) "Reuse" means the return of a commodity to the economic mainstream for use in the same kind of application as before without change in its identity (e.g., a container used to repackage a pesticide formulation).

**Statutory/Other Authority:** ORS 465.009 & 466.020

**Statutes/Other Implemented:** ORS 465.003, 465.009, 466.005, 466.075 & 466.105

**History:**

DEQ 11-2019, minor correction filed 03/06/2019, effective 03/06/2019

DEQ 5-2015, f. & cert. ef. 4-15-15

DEQ 13-2003, f. & cert. ef. 10-24-03

DEQ 13-2002, f. & cert. ef. 10-9-02

DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01

DEQ 10-2000, f. & cert. ef. 7-21-00

DEQ 12-1996, f. & cert. ef. 7-31-96, Renumbered from 340-109-0002

DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91)

DEQ 8-1985, f. & ef. 7-25-85

DEQ 7-1984, f. & cert. ef. 4-26-84