

# Document Review Checklist

## Rulemaking Name: Composting Facility Pathogen Reduction Rule Amendment

### Document Name: Fiscal Impact Statement

Every document that will be shared with anyone outside of DEQ staff must go through management review. This includes reports and PowerPoint presentations.

All documents must be reviewed and approved by the Program Manager, Communications, and either the Agency Rules Coordinator or the Air Quality Rules Coordinator.

The Notice of Rulemaking and EQC Staff Report must also be reviewed and approved by the relevant Division Administrator.

You do not need to use this checklist for routine editing. You should use this checklist whenever a required reviewer is completing their required review and approving the document for distribution.

Each required reviewer should add their name and the date when they complete their final review and approve the document for distribution.

<b>Reviewer</b>	<b>Name</b>	<b>Date</b>	<b>Date</b>	<b>Date</b>
Program Mgr	O'Brien	3.7.19	3.8.19	
DA	Emer			
Communications	Mills	3.13.19		
ARC or AQRC	Goldstein	3.18.19		
Other				
Other				
Other				



State of Oregon Department of Environmental Quality

# Compost Facility Pathogen Reduction Rule Amendment Draft Fiscal Impact Statement

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## Fee Analysis

The proposed rulemaking does not involve fees.

## Statement of fiscal and economic impact

### Fiscal and Economic Impact

This rulemaking's purpose is to permanently adopt the temporary rule amendments to the compost rules that the Environmental Quality Commission adopted on February 25, 2019. Therefore, adopting the proposed rule amendments will not have any fiscal impact different from, or in addition to, the impact resulting from the temporary rule amendments.

The temporary rule amendments corrected an inconsistency in the treatment of digestate under OAR 340-096-0140. In particular, OAR 340-096-0140 had imposed pathogen reduction standards on all digestate produced by DEQ-permitted anaerobic digesters. However, that rule exempted digestate produced by agricultural operations from these standards when such digestate was used for an on-farm use. As a result, digestate produced for on-farm use by anaerobic digesters not considered agricultural operations (e.g., "off-farm" anaerobic digesters) had to meet a higher pathogen reduction standard than digestate produced by agricultural operations for the same use.

The temporary rule amendments corrected this inconsistency and clarified that digestate that is applied to land as a fertilizer (e.g., "land applied") at agronomic rates in compliance with federal biosolids requirements (as set forth in 40 C.F.R. §503.32(b)(5)) does not need to meet pathogen limits for fecal coliform, regardless of whether the anaerobic digester is an agricultural operation or not. (Land application of digestate at agronomic rates and in compliance with federal biosolids requirements assures that pathogen reduction is to safe levels that are environmentally protective.) The temporary rule amendments are effective from February 26, 2019 to August 24, 2019.

When compared to the version of OAR 340-096-0140 in place before February 26, 2019, the temporary and proposed permanent rule amendments could have a positive fiscal impact on DEQ-permitted anaerobic digesters that do not meet the standards for being considered an

agricultural operation. Such anaerobic digesters, when producing digestate for land application, would not have to operate their anaerobic digestion technologies either for as long of a time, or at as high of a temperature, or both, in order to meet the previously more stringent pathogen reduction requirements. This may result in a savings in energy and labor costs.

The remainder of this fiscal impact statement will further describe the impact that adopting the proposed changes could cause, when compared to the version of OAR 340-096-0140 that was in effect before February 26, 2019.

## **Statement of Cost of Compliance**

### **State and federal agencies**

DEQ anticipates no direct or indirect impact on state or federal agencies.

#### **DEQ**

##### **Direct Impacts**

There are no anticipated direct impacts to DEQ.

##### **Indirect Impacts**

There are no anticipated indirect impacts to DEQ.

#### **Local governments**

##### **Direct Impacts**

There are no anticipated direct impacts to local governments.

##### **Indirect Impacts**

There are no anticipated indirect impacts to local governments.

#### **Public**

##### **Direct Impacts**

DEQ does not anticipate direct impacts to members of the public because they are not subject to the rule.

##### **Indirect Impacts**

There are no anticipated indirect impacts to the public.

#### **Large businesses - businesses with more than 50 employees**

##### **Direct Impacts**

DEQ anticipates a direct impact to one large business in the future. The rule amendment will directly affect Shell New Energies, a DEQ-permitted anaerobic digester in Oregon. While Shell New Energies has fewer than ten employees, it is a subsidiary of Shell Oil, a national company.

The direct impact on Shell New Energies would likely be a decrease in facility operational costs, if the facility starts to process manure, as planned in the future. For digestate that will

be land applied at agronomic rates in compliance with federal biosolids requirements, the digester would not have to process its feedstock (e.g., the material that is used in anaerobic digestion) for either as long or at as high of a temperature, or both, as would be required in order to achieve the pathogen reduction limits set forth in OAR 340-096-0140.

#### Indirect Impacts

There are no indirect impacts to large businesses.

### **Small businesses – businesses with 50 or fewer employees**

#### Direct Impacts

DEQ anticipates a direct impact to the anaerobic digester of one small business, the Port of Tillamook Bay. The rule amendment would likely prevent an increase in facility operational costs because the anaerobic digester would potentially not need to process the feedstock for either as long, or at an increased temperature, or both, to achieve pathogen reduction limits.

#### Indirect Impacts

There are no indirect impacts to small businesses.

#### **a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule amendment.**

The proposed rule amendment will affect the anaerobic digester of at least one small business, the Port of Tillamook Bay.

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

The proposed rule change will not require any additional administrative activities by the Port of Tillamook Bay's anaerobic digester. Each facility will continue to test digestate for pathogen reduction. However they will not be required to meet the pathogen reduction limit specified in OAR 340-096-0140 as long as the digestate is applied to soil at agronomic application rates and is in compliance with federal biosolids requirements.

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

The proposed amendments will not require any business to use additional resources.

#### **d. Describe how DEQ involved small businesses in developing this proposed rule.**

DEQ spoke with the two affected anaerobic digester operators about the amendment. DEQ will also conduct a public comment period during which any person will be able to comment about the rule changes.

### **Documents relied on for fiscal and economic impact**

DEQ did not use any documents to determine fiscal impact. DEQ discussed the fiscal impact of this rule with affected anaerobic digester facility operators in developing its staff report for the temporary rule.

## **Advisory committee**

DEQ appointed an advisory committee.

As ORS 183.333 requires, DEQ will ask for the committee's recommendations on:

- Whether the proposed rules would have a fiscal impact,
- The extent of the impact and
- Whether the proposed rules would have a significant adverse impact on small businesses and, if so, how DEQ can comply with ORS 183.540 to reduce that impact.

## **Housing cost**

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel. DEQ determined the proposed rules would have no effect on the development costs because the DEQ Solid Waste Composting rules only affect DEQ-permitted composting facilities.

## **Alternative formats**

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us).