



Oregon Department of Environmental Quality  
Jan 1, 2019

## Notice of Proposed Rulemaking

Hazardous Waste Fees 2019

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## Accessibility Information

You may review copies of all documents referenced in this announcement at:  
Oregon Department of Environmental Quality  
700 NE Multnomah St., Ste. 600  
Portland, OR, 97232

To schedule a review of all websites and documents referenced in this announcement, call Jeannette Acomb, DEQ Headquarters, at 503-229-6303 or 800-452-4011, ext. 5622 toll-free in Oregon.

Please notify DEQ of any special physical or language accommodations or if you need information in large print, Braille or another format. To make these arrangements, contact DEQ, Portland, at 503-229-5696 or call toll-free in Oregon at 800-452-4011, ext. 5696; fax to 503-229-6762; or email to [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us). Hearing impaired persons may call 711.

## Introduction

DEQ invites public input on proposed permanent rule amendments to chapter 340 of the Oregon Administrative Rules. The proposal affects rule divisions 102 and 105, DEQ's hazardous waste rules.

## Request for Other Options

During the public comment period, DEQ asks for public comment on whether there are other options for achieving the rules' substantive goals while reducing the rules' negative economic impact on business.

## Overview

### DEQ proposal

The Oregon Department of Environmental Quality is proposing to align its hazardous waste fees more closely with program needs and the consumer price index. This effort is a multi-phase project to amend current hazardous waste fee funding over several years to secure sufficient funding by 2026.

This proposal will amend fees established in rule to help bridge program funding through 2024. DEQ will have to seek statutory amendment to statutory fees in 2021 or 2023 to fund the program by 2026.

## **Background**

DEQ's Hazardous Waste Program promotes reducing and safely managing hazardous waste, issues permits to waste management facilities, inspects hazardous waste generators and used oil processors, and assists Oregon small businesses in complying with complex federal regulations.

The program's primary objectives are to:

- Reduce or eliminate the threat of exposure to hazardous waste
- Reduce the use of toxic chemicals in the workplace
- Deliver excellence in service

DEQ remains committed to maintaining state authorization for this program rather than having the U.S. Environmental Protection Agency run the program. This ensures flexibility and responsiveness in implementing the Hazardous Waste Program in Oregon.

Since January 1986, EPA has authorized Oregon to manage the state's hazardous waste or Resource Conservation and Recovery Act program. DEQ implements the state hazardous waste program, as defined in ORS 466.086 and as applied in OAR 340-100-0002, to ensure harmful wastes are properly managed from "cradle to grave."

ORS 466.165(1) authorizes DEQ to collect fees to "carry on the monitoring, inspection and surveillance program established under ORS 466.195 and to cover related administrative costs." (ORS 466.165(1).)

Annually, DEQ's Hazardous Waste Program receives approximately \$3.5 million from multiple sources, including various fees (79 percent), a federal grant (20 percent), and small cost recovery funds (1 percent). Required General Fund reductions and shifts to a grant- and fee-based program ended the program's General Fund allocation in 2014. The Oregon Legislature approved a budget of 25 full-time equivalent staff for the program's 2017-2019 budget. Current revenue supports 19 full-time staff.

The proposed fees would address the forecasted \$1.2 million - \$1.5 million deficit in Hazardous Waste Program revenue for the 2019-21 biennium. This shortfall threatens DEQ's ability to ensure safe management and disposal of hazardous waste and greatly reduces compliance assistance to small businesses. It also potentially impacts Oregon's ability to retain federal authorization of the Hazardous Waste Program.

DEQ proposes revising:

- Annual hazardous waste generators activity verification fees
- Annual hazardous waste generators management method fee factors
- Annual permitted Treatment, Storage, and Disposal facility compliance determination fees
- TSD permit modification fees
- TSD annual disposal administrative fees

## **Who does this affect?**

These fees will affect 487 fee payers producing hazardous waste and two businesses operating permitted TSD facilities. Of those, DEQ identified 18 remedial clean-up sites, including nine closed sites that intermittently generate hazardous waste.

The proposed amendments of OAR 340-102 and 105 apply to all hazardous waste generators required to report.

## **Procedural Summary**

### **More information**

Information about this rulemaking is on DEQ's rulemaking web page: [Hazardous Waste Fees 2019 Rulemaking](#).

### **Public Hearings**

DEQ will hold one public hearing on this rulemaking as detailed below.

### **How to comment on this rulemaking proposal**

DEQ is asking for public comment on the proposed rules. Anyone can submit comments and questions about this rulemaking. A person can submit comments through an online webpage, by regular mail or at the public hearing.

### **Comment deadline**

DEQ will only consider comments on the proposed rules that DEQ receives by 4 p.m., on Jan. 22, 2019.

### **Submit comment online**

[Hazardous Waste Fees Rulemaking Comment Page](#)

### **Note for public university students:**

ORS 192.501(29) allows Oregon public university and OHSU students to protect their university email addresses from disclosure under Oregon's public records law. If you are an Oregon public university or OHSU student, you may omit your email address when you complete the online form to submit a comment.

### **By mail**

Oregon DEQ  
Attn: Jeannette Acomb  
700 NE Multnomah Street, Suite 600  
Portland, OR 97232-1400

## **At hearing**

6 p.m., Thursday, Jan. 17, 2019  
Oregon Department of Environmental Quality  
700 NE Multnomah Street, Suite 600, Room 610 (check in on 6<sup>th</sup> floor)  
Portland, OR 97232-4100

## **You can also participate in the hearing through a teleconference:**

- Teleconference call-in phone number: 888-363-4734
- Teleconference call Participant ID: 1910322
- Teleconference instructions: [Teleconference Instructions](#)

## **Sign up for rulemaking notices**

Get email updates about future DEQ rulemaking by signing up through these links: on the hazardous waste rulemaking or DEQ rulemaking websites:

[Hazardous Waste Fees 2019 Rulemaking](#), or at  
[DEQ GovDelivery Notices for Hazardous Waste](#)

Get email or text updates about other, future DEQ rulemaking by signing up through this link: [DEQ Email Notice List](#).

## **What will happen next?**

DEQ will include a written response to comments in a staff report DEQ will submit to the Oregon Environmental Quality Commission. DEQ may modify the rule proposal based on the comments.

## **Present proposal to the EQC**

Proposed rules only become effective if the EQC adopts them. DEQ plans to present the proposed rules to the EQC for a decision at the May 2019 meeting.

## **Statement of need**

### **What need would the proposed rule address?**

The majority of fees have remained unchanged for 20 years. By the 2019-21 biennium, funding will be insufficient to support current service levels needed to maintain the program.

DEQ must establish the new fees by July 1, 2019, to cover costs associated with implementing the Hazardous Waste Program and delivering services to regulated entities. The program has significantly reduced staff and is currently operating below the legislatively approved budget staffing levels by three positions.

### **How would the proposed rule address the need?**

If approved, DEQ would begin receiving new fee revenue by July 1, 2019. This will help address the forecasted \$1.2 million - \$1.5 million deficit in the Hazardous Waste Program

for the 2019-21 biennium. The increased revenue will allow DEQ to maintain positions. No new positions are included in this rulemaking.

The proposed fees will ensure DEQ continues implementing the state’s federally authorized hazardous waste management program.

**How will DEQ know the rule addressed the need?**

If EQC approves the fees, DEQ will use them to:

- Better align fees with the program’s workload at these facilities
- Maintain existing positions
- Help balance the program’s budget
- Meet federal requirement to maintain program authorization

**Rules affected, authorities, supporting documents**

**Lead division**

Land Quality Division

**Program or activity**

Hazardous Waste Program

**Chapter 340 action**

Amend - OAR

340-102-0065 340-105-0113

**Statutory authority - ORS**

466.165	466.020	466.165	468.020
468.020	466.075	466.195	

**Statute implemented - ORS**

466.165	466.045	466.165	
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**Documents relied on for rulemaking**

Document title	Document location
<a href="#">2019-21 DEQ Agency Request Budget</a> <a href="#">2017-19 DEQ Legislatively Approved Budget</a> 2018 Hazardous Waste Generator Reporters <a href="#">2018 Hazardous Waste Fees Advisory Committee Notes</a>	DEQ Headquarters
2016 Oregon Employment Department Data Businesses with 50 or fewer employees	Oregon Employment Department 875 Union Street NE Salem, OR 97311

Document title	Document location
	<a href="https://www.qualityinfo.org/bi">https://www.qualityinfo.org/bi</a>
<a href="#">2018 US Bureau of Labor Statistics Consumer Price Index</a> (West, not seasonally adjusted)	U.S. Bureau of Labor Statistics 2 Massachusetts Avenue, NE Washington, DC 20212-0001

## Fee Analysis

The EQC’s approval of this rule proposal would increase existing Hazardous Waste Program fees. EQC authority to act on the proposed fees is ORS 466.020, 466.045, 466.075, 466.165, 466.195 and 468.020.

### Brief description of proposed fees

This rulemaking amends the hazardous waste generator and TSD facility fees to address a projected funding shortfall.

### Reasons

The proposed fees would address the projected funding shortfall in the 2019-21 biennium revenue for the Hazardous Waste Program. Factors contributing to the projected funding shortfall include:

- **Change in state revenue**  
The Hazardous Waste Program received \$1.2 million in General Funds in 1999. Since then, the legislature has steadily reduced the amount of General Fund support and eliminated it in 2014.
- **Change in fee revenue**  
Since 2004, Oregon’s Hazardous Waste Program funding has significantly decreased. This includes the Chemical Waste Management’s Arlington landfill hazardous waste tipping fees (approximately 60 percent) and Hazardous Waste Permit fees. Program staffing during this time decreased by 30 percent.
- **Change in other fund revenue**  
Since 2004, the program’s EPA Performance Partnership Grant funding decreased by approximately 7 percent.
- **Increased program costs**  
Most program fees remained unchanged for nearly 20 years without adjustment for inflation. Increased program costs include, but are not limited to, salaries, benefits, and information technology updates. This includes replacing two information systems to ensure continued compatibility with the State of Oregon’s information technology standards and security requirements.

- Change in transaction costs

The program has two currently operating TSD permitted facilities. Permit modification fees remain at the 1997 level, without any inflation increase.

- Program streamlining

The program has cut costs over the last decade by minimizing expenses, reducing overhead, holding positions vacant, and supplementing with a small ending fund balance.

- Static number of base fee payers

The number of hazardous waste generators reporting annually in the past 10 years (2008 to present) has remained relatively static with an average 470. However, the program's staff level decreased from 39 legislatively approved FTE to the current 25 FTE.

### **Fee proposal alternatives considered**

The program considered the following fee increase alternatives:

- No fee increases, which does not address the projected shortfall in revenue
- Additional cost saving activities, which would require additional staffing reductions and possible loss in ability to meet EPA commitments needed to maintain program authorization

In addition, the program considered the following, which requires changing the controlling Oregon Revised Statutes. However, these options are out of the scope of the proposed rulemaking:

- Amending hazardous waste generator fee cap of \$32,500 to help cover associated costs
- Amending hazardous waste metric ton \$130 fee
- Amending hazardous waste permit renewal fees of \$150,000 to help cover costs
- Inflation or consumer price index consideration
- Cost recovery for permit modifications

### **Fee payer**

The proposed rules will increase the annual hazardous waste activity verification fees for businesses generating more than 220 pounds of hazardous waste per calendar month or 2.2 pounds of acutely hazardous waste per calendar month. The amendments will also increase all management method factors. DEQ estimates this will affect 487 fee payers.

The proposed rules will also increase the annual hazardous waste permit compliance determination fees, increase the hazardous waste permit modification fees, and add an annual administrative disposal fee for operating permitted TSD facilities. The proposed rules will affect two operating permitted TSD facilities.

### **Affected party involvement in fee-setting process**

DEQ convened a nine-member Hazardous Waste Fees Advisory Committee that also served as the fiscal advisors in the fee-setting process. Committee members included statewide

geographic representation, directly and indirectly affected regulated parties for large and small businesses, business advocates, and environmental interests.

**Fee payer agreement with fee proposal**

DEQ utilized the advisory committee’s discussions in forming draft proposals. The draft proposals will be part of the required formal notice process that includes a public hearing and an opportunity for the public to comment.

DEQ will consider all comments before finalizing and presenting the proposed fee package to the EQC in May 2019.

**When were these fees last increased?**

- The generator management method factor has not changed since established in 1992
- The generator annual activity verification fee last changed in 1997, when the small quantity generator fee increased from \$200 to \$300 and the large quantity generator fee increased from \$350 to \$525
- Permitting annual compliance determination fees have remained the same since 1997 and permit modification fee since 1998

Hazardous waste generator fee statutory changes not considered in this rulemaking:

- The annual metric ton generator fee changed in 2007 from \$110 to \$130 per metric ton
- The hazardous waste generation fee cap changed in 2007 from \$27,500 to \$32,500

**How long will the current fee sustain the program?**

The program has reduced expenditures and is still experiencing an annual \$1.0 million plus deficit. Without additional revenue, the program will exhaust all available fund sources in July 2019 and the program will need to consider other cost reductions by December 2019.

<b>Current Biennial Fees</b>		
		<b>Percentage Covered this Source</b>
Program costs covered by fees*	\$6,070,641	74 percent
Program costs covered by General Fund	\$0	0 percent
Fee Last Changed	1992 – Established Management Method factor 1997 – Generator Annual Activity Verification 1997 – Permit Annual Compliance Determination 1998 – Permit Modification fee	

\*Source: DEQ 2017-19 Legislative Approved Budget

**How long will the proposed fee sustain the program?**

DEQ is looking at several fee-funding alternatives in a multi-year effort to address this deficit by 2026. Phase I, this rulemaking will address those fees that can change by rule. DEQ must make additional rule and statute changes within the next seven years to secure

long-term, stable funding to maintain the program at its current full-time equivalent service level.

Proposed Fees		
Expected change in revenue (+/-) – generators	+ ~ 1,127,527	73 percent
Expected change in revenue (+/-) – permitting	+ ~ \$576,500	159 percent
Expected effective date (begins multi-year increase)	July 2019 with phase-in through 2024 for generator fees	

### Transactions and revenue

For hazardous waste generators annually reporting:

Transactions and Revenue				
Biennium	Number of transactions	Number of fee payers	Impact on revenue (+/-)	Total revenue (+/-)
2017-19 current	~ 487	~ 487	+ \$0	+ \$ 0
2019-21 biennium	~ 487	~ 487	+ ~ \$600,953	+ ~\$2,150,953
2021-23 biennium	~ 487	~ 487	+ ~ \$299,477	+ ~\$2,450,429
2023-25 biennium	~ 487	~ 487	+ ~ \$227,098	+ ~\$2,677,527

For permitted hazardous waste TSD facilities:

Transactions and Revenue				
Biennium	Number of transactions	Number of fee payers	Impact on revenue (+/-)	Total revenue (+/-)
2017-19 current	2	2	+ \$0	+ \$0
2019-21 biennium	2	2	+ ~\$576,500	+ ~\$939,000

### Generator Fees

DEQ’s current annual hazardous generator fee has two components:

1. An annual activity verification fee = \$525 or \$300+
2. An annual hazardous waste generation fee (includes management method factor) = amount of metric tons waste X \$130 X management method factor

Both parts combine to represent the total fee included on the annual hazardous waste invoice. DEQ has a current generator fee cap of \$32,500, which applies only to Part 2 of this formula.

#### 1. Annual activity verification fee

The fee is based on generator category. All generators of hazardous waste that notified DEQ of their activities and obtained a Resource Conservation and Recovery Act Site Identification Number must verify their basic registration information annually. They are assessed a fee according to their generator category.

- a. Current Annual Activity Verification Fees are:
- Large Quantity Generators \$525
  - Small Quantity Generators \$300
  - Conditionally Exempt Generators - No fee

The table below shows how DEQ defines hazardous waste generators:

<b>Informational Only: Defines hazardous waste generator categories</b>		
<b>Generator Category</b>	<b>Accumulation Limit</b>	<b>Storage/Shipping Schedule</b>
<b>Large Quantity Generator</b> Generates more than 2,220 lbs. of hazardous waste per calendar month, and generates more than 2.2 lbs. of acutely hazardous waste per calendar month.	<ul style="list-style-type: none"> <li>• No limit.</li> </ul>	Generator must ship all accumulated hazardous waste off-site within 90 days of accumulation start date. If generator does not meet the 90-day deadline, they are required to obtain a hazardous waste storage facility permit.
<b>Small Quantity Generator</b> Generates more than 220 lbs. and less than 2,200 lbs. of hazardous waste per calendar month, and generates no more than 2.2 lbs. of acutely hazardous waste per calendar month.	<ul style="list-style-type: none"> <li>• 13,200 lbs. If generator exceeds this limit, a permit is required</li> <li>• Accumulates no more than 2.2 lbs. of acutely hazardous waste at any time.</li> </ul>	Generator must ship waste off-site within 180 days after the waste was first placed in a container. If the receiving facility is more than 200 miles from generation site, the generator may store wastes up to 270 days.
<b>Conditionally Exempt Small Quantity Generator</b> Generates 220 lbs. or less of hazardous waste per calendar month and generate no more than 2.2 lbs. of acutely hazardous waste per calendar month.	<ul style="list-style-type: none"> <li>• 2,200 lbs.</li> <li>• Accumulates no more than 2.2 lbs. of acutely hazardous waste at any time.</li> </ul>	2,200 lbs. or less of hazardous waste may be stored indefinitely.

The examples below shows how DEQ calculates the hazardous waste generator fees:

Informational Only: Calculating Hazardous Waste Generator Fees						
Management Method	Annual Amount Managed	Per Metric Ton	Management Method Factor	Waste Generation Fee**	Generator Activity Verification Fee	Total Invoice
Landfill Disposal	4 metric tons (8,820 lbs.)	X \$130	X 1.50	= \$780	+ \$300 =	\$1,080
Fuel Blending	4 metric tons (8,820 lbs.)	X \$130	X 0.75	= \$390	+ \$525 =	\$ 915
** The annual maximum any one generator may pay in hazardous waste generation fees is \$32,500. This annual maximum does not include the activity verification fee.						

b. Proposed Annual Activity Verification Fees:

A three-year phase-in will increase the Annual Hazardous Waste Activity Verification Fee as defined in OAR 340-102-0065(4). The fee will increase by 80 percent to better align with the consumer price index (1997-2021: 72%). The increase will follow this schedule:

Hazardous Waste Generator Annual Activity Verification Fee				
Generator Type	Effective in Calendar Year			
	Current 2018	2019 (25%)**	2020 (20%)**	2021 & After (20%)**
Large Quantity Generators	\$525	\$656	\$788	\$945
Small Quantity Generators	\$300	\$375	\$450	\$540
Conditionally Exempt Generators	\$0	\$0	\$0	\$0
Annual Fee Revenue*	\$190,200	~\$237,750	~\$285,300	~\$342,360
Additional Annual Revenue	\$0	\$47,550	\$47,550	\$57,060
*Revenue based on 2017 hazardous waste generator invoicing of 196 LQGs and 291 SQGs. ** Percent increase is over previous year.				

**2. Annual hazardous waste generation fee**

This fee applies to large- and small-quantity generators reporting hazardous waste generation and management during a calendar year. One portion of this calculation is the management method factors, which this rulemaking is addressing. The management method factors reflect Oregon’s environmental hierarchy of preferred management methods and offer financial incentives to responsibly manage and reduce hazardous waste.

a. Current Management Method Factors are:

Management Method	Fee Factor
Metals recovery (for reuse)	0.50
Solvents recovery	0.50
Other recovery	0.50
Hazardous wastewater not managed immediately upon generation, only in on-site elementary neutralization unit(s) or wastewater treatment unit(s)	0.50
Incineration	1.00
Energy recovery (reuse as fuel)	0.75
Fuel blending	0.75
Aqueous inorganic treatment	1.00
Aqueous organic treatment	1.00
Aqueous organic and inorganic treatment combined	1.00
Sludge treatment	1.00
Other treatment	1.00
Stabilization	1.00
Neutralization offsite	0.75
Land disposal	1.50
Management method unknown or not reported	2.00
RCRA-exempt management elementary neutralization unit(s) on-site [includes only corrosive characteristic hazardous waste managed immediately upon generation only in an on-site elementary neutralization unit(s)]	0.00
Permitted discharge under the federal Clean Water Act Section 402 or 307b (includes only hazardous wastewater managed immediately upon generation only in an on-site wastewater treatment unit(s))	0.00

b. Proposed Management Method Factor schedule:

A six-year phase-in will increase the management method factors as defined in OAR 340-102-0065(3)(c). This will increase by 70 percent to better align with the consumer price index (1992-2021: 94%) using this schedule:

Proposed Management Method Factor Increase							
Effective in Calendar year	Recovery & Wastewater	Energy Recovery & Neutralization (off site)	Incineration & Treatment	Land Disposal	Unknown & Not Reported	Potential Revenue* by year	Potential Additional Annual Revenue
Current-2018	0.50	0.75	1.00	1.50	2.00	\$1,390,457	\$0
2019 (12%)+	0.56	0.84	1.12	1.68	2.24	\$1,557,457	\$166,999
2020 (17%)+	0.66	0.98	1.31	1.97	2.62	\$1,822,224	\$264,768
2021 (5%)+	0.69	1.03	1.38	2.06	2.75	\$1,913,336	\$91,111

Proposed Management Method Factor Increase							
Effective in Calendar year	Recovery & Wastewater	Energy Recovery & Neutralization (off site)	Incineration & Treatment	Land Disposal	Unknown & Not Reported	Potential Revenue* by year	Potential Additional Annual Revenue
2022 (8%)+	0.74	1.11	1.49	2.23	2.97	\$2,066,403	\$153,067
2023 (7%)+	0.80	1.19	1.59	2.39	3.18	\$2,211,051	\$144,648
2024 (7%)+ & After	0.85	1.28	1.70	2.55	3.40	\$2,365,824	\$154,774

*\*Revenue based on 2017 hazardous waste generator invoicing.  
+ Calculated by percent multiplied by current revenue and subsequently over previous year*

c. Proposed New Management Method Factor

The proposed rule would add a new management method factor to encourage brownfield or orphaned industrial property site cleanups receiving grant funding. DEQ identified two sites in the last six years that would meet this criteria. Each of those sites had ~\$30,000 in disposal costs.

New Management Method Factor	
Effective in Calendar year	Grant-funded environmental cleanup of a brownfield or orphaned industrial property involving waste residues for off-site treatment and/or landfill disposal
2019	0.00

**Permitting Fees**

DEQ’s current permitting fees include two components addressed in this rulemaking:

1. Annual permit compliance determination fee
2. Permit modification fee

As background, each permitted hazardous waste TSD facility subject to 40 C.F.R. 264, 265, 270 and OAR 340, with an active operating hazardous waste unit(s), is subject to the annual compliance determination fee.

DEQ will assess permittees a permit modification fee. This excludes modification related to corrective action.

1. Annual Compliance Determination Fee

a. This increases permitted TSD annual compliance determination fees in Oregon Administrative Rule 340-105-0113(3). The fee increases by 31 percent to better align with the consumer price index (1997-2021: 72%) using this schedule:

<b>Permitted Treatment, Storage, and Disposal Compliance Determination Fee</b>			
<b>Facility Activity Type</b>	<b>Current 2018</b>	<b>Effective in Calendar Year 2019</b>	<b>Proposed Revenue</b>
Storage	\$18,750	\$24,500	\$49,000
Treatment: Single Technology	\$37,500	\$49,500	\$0
Treatment: Multiple Technology	\$75,000	\$98,500	\$98,500
Disposal Facility: Single Disposal Unit	\$75,000	\$98,500	\$0
Disposal Facility: Multiple Disposal Units	\$150,000	\$196,500	\$196,500
Post-Closure Facility	\$18,750	\$24,500	\$0
<b>Revenue Effect</b>			
Annual Fee Revenue*	\$262,500		\$344,000
Additional Annual Revenue			\$81,500
<i>*Revenue based on 2018 TSD reporting data of 2 Storage, 1 Multi-Treatment, 1 Multi-Disposal</i>			

Where more than one hazardous waste management activity takes place at a single facility, DEQ will assess all of the applicable category Annual Compliance Determination Fees.

b. New Permitted Operating Hazardous Waste Disposal Administrative Fee

This introduces a new administrative fee of \$5.50 per metric ton of waste disposed into a permitted Subtitle C land unit, by operating Oregon permitted hazardous waste disposal facilities. DEQ expects approximately 80 to 90 percent of the metric ton volume will be from out-of-state generators. The rulemaking adds the new annual administrative fee using this schedule:

<b>New Permit Administration Fee</b>		
<b>Type</b>	<b>Current 2018</b>	<b>Effective in Calendar Year 2019</b>
Permitted Operating Disposal Fee	\$0	\$5.50 per metric ton
<b>Revenue Change</b>		
Annual fee revenue*	\$0	
Potential Additional Revenue		~\$495,000

<b>New Permit Administration Fee</b>		
<b>Type</b>	<b>Current 2018</b>	<b>Effective in Calendar Year 2019</b>
<i>*Revenue based on ~90,000 metric tons hazardous waste disposed in Oregon annually</i>		

## 2. Permit Modification Fee

This increases the permit modification OAR 340-105-0113(4) fees 59 percent. This better aligns with the consumer price index (1992-2021: 94%) and streamlines the modification types to remove low and medium workloads using this schedule:

<b>Permit Modification Fee</b>			
<b>Modification Type</b>	<b>Current 2018</b>	<b>Effective in Calendar Year 2019</b>	<b>Potential Variable Revenue*</b>
Class 1 Low Workload	\$425	\$0	
Class 1 Medium Workload	\$1,500	\$0	
Class 1 High Workload	\$2,800	\$4,500	\$9,000
Class 2 Low Workload	\$5,000	\$0	
Class 2 Medium Workload	\$10,000	\$0	
Class 2 High Workload	\$20,000	\$31,800	\$31,800
Class 2 Processed as Class 3	\$31,000	\$0	
Class 3 Low Workload	\$7,500	\$0	
Class 3 Medium Workload	\$15,000	\$0	
Class 3 High Workload	\$31,000	\$49,300	
<b>Revenue Effect</b>			
Revenue*	~\$7,350		~\$40,800
Potential Additional Revenue			\$33,450
<i>*Revenue based on 20-year average of 2-Class 1 and 1-Class 2</i>			

DEQ only receives permit modification fees when permittees request a modification. These fees are not a reliable source of annual revenue.

# Statement of fiscal impact

## Fiscal and Economic Impact

### For Generators

The proposed generator rules will increase the annual hazardous waste reporting fees for businesses generating more than 220 pounds of hazardous waste a calendar month, generating 2.2 pounds of acutely hazardous waste a calendar month, or accumulating more than 2,200 pounds at any one time. The rulemaking will not affect conditionally exempt generators generating less than the above amounts of hazardous waste.

DEQ reviewed its hazardous waste registered businesses and found this rule will affect 487 active businesses that report their hazardous wastes. A small number of Oregon businesses may report periodically as they conduct a chemical clean out or one-time hazardous waste cleanup event that would move them from the conditionally exempt category to a small or large quantity generator of hazardous waste.

### For Permitting

The proposed permitting rules will increase the annual hazardous waste compliance determination fees, add a new annual permitted operating disposal administrative fee, and amend the permit modification fees for businesses permitted to operate TSD facilities. DEQ reviewed its hazardous waste permitted TSD facilities and found this rule would affect two active operating TSD facilities that report their hazardous wastes.

## Statement of Cost of Compliance

DEQ anticipates this rule adoption will cause small economic impacts on its own expenditures. DEQ will make administrative changes on the annual reporting and accounting systems. We expect this impact to be minimal.

Any rule change requires staff training and outreach to the regulated community. DEQ expects this impact to be minimal, as DEQ currently performs outreach through the hazardous waste annual reporting notifications and through the hazardous waste technical assistance program to regulated facilities.

## State, federal and local governments

### Direct Impacts

For state, federal, and local governments annually reporting their hazardous waste generation and management activity, compliance costs associated with the proposed rules is identical to costs described under “Large Businesses.”

### Indirect Impacts

The proposed rules would have the same indirect costs as “Large Businesses” indirect impacts.

## Public

### Direct Impacts

DEQ anticipates there will be no fiscal impact on the public, as fees and a federal grant fund the program. DEQ does not use any Oregon General Funds to support the Hazardous Waste Program.

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

#### Hazardous Waste Generator Direct Impacts

DEQ anticipates there will be a fiscal impact to businesses generating and managing hazardous wastes who report. The tables below provide summaries of the proposed direct financial impact of each total fee increase proposal for generators and permitted facilities, respectively.

<b>Generator - Large Business Fiscal Impact by 2024</b>	
<b>Annual Activity Verification Generator Fees</b>	
<b>SQG</b>	<b>LQG</b>
\$240 increase (200 businesses)	\$420 increase (133 large businesses)
<b>Management Method Fee factors</b> (this analysis does not includes spills, cleanup sites, remediation sites, or closed facilities, to provide the most accurate representation of future impacts)	
<b>SQG</b>	<b>LQG</b>
\$467 average increase (200 businesses)	\$4,457 (average increase, including cap*) (133 businesses)
*This increase would result in thirteen (13) additional LQGs reaching the cap.	

<b>Management Method Fee factors</b>			
<b>Large Business Impacts Estimated Breakdown</b>			
<b>SQG</b>		<b>LQG</b>	
<b>Increase</b>	<b># Generators</b>	<b>Increase</b>	<b># Generators</b>
\$2,001 - \$4,000	5	\$15,001 - \$21,000	11 (4*)
\$1,001 - \$2,000	23	\$10,001 - \$15,000	12 (4*)
\$500 - \$1,000	21	\$5,000 - \$10,000	18 (4*)
< \$500	151	< \$5,000	92 (1*)
<b>Total</b>	<b>200</b>	<b>Total</b>	<b>133</b>
*Denotes facilities that will reach the cap based on the increase.			

<b>Permitted Facility – Large Business Fiscal Impact by 2019</b>	
<b>Proposed - Fee type</b>	<b>Fiscal Impact</b>
Permitting Annual Compliance Determination fees	Two permitted operating TSD facilities will be subject to fee increases of \$75,750 and \$5,750 respectively for increase of 31%.
New Operating TSD Disposal Administrative Fee	<p>One permitted operating hazardous waste disposal facility will be subject to an annual \$5.50 per metric ton disposal administrative fee. This may result in potentially \$495,000 in additional revenue based on ~ 90,000 tons annually disposed to a permitted Subtitle C land disposal unit. Approximately 10-20% is in-state disposal.</p> <p>If the \$5.50 per metric ton is passed through directly to Oregon’s hazardous waste large business generators, the estimated impacts of this fee is as follows, based on 2017 disposal data:</p> <ul style="list-style-type: none"> <li>• Average annual increase to the 23 reporting CEGs \$5.83</li> <li>• Average annual increase to the 14 SQGs \$12.14</li> <li>• Average annual increase to the 32 LQGs \$451.34</li> </ul>
Permitting Modification Fee	Permitted TSD facilities will be subject to the applicable hazardous waste permit modification fee when requesting permit modifications. Impact depends on the classification of work needed. A 20-year average identified submission of three permit modifications a year, or roughly ~\$40,800 under the amended fee. This proposal would result in an increase in potential revenue of ~\$33,450.

**Hazardous Waste Generator Indirect Impacts**

There may be a fiscal impact in addition to the new operating TSD disposal administrative fee. The proposed rules include an increase in permitted hazardous waste TSD permitting fees that may affect generators. Because of increased fees, Oregon’s two operating facilities may decide to pass the costs on to businesses utilizing their services. DEQ is not responsible for these types of business decisions and cannot quantify what those potential costs might be.

**Permitted Treatment, Storage and Disposal Facility Direct Impacts**

DEQ anticipates there will be a fiscal impact to two operating permitted hazardous waste TSD facilities generating and managing hazardous wastes who report. The impact to those businesses would be a direct cost increase of 31 percent to their annual compliance determination fees. In addition, if the facility seeks a modification to its current permit, the business would have a direct cost increase of 59 percent. The proposed fee table above shows a detailed breakdown of the estimated financial impact.

**Permitted Treatment, Storage and Disposal Facility Indirect Impacts**

DEQ anticipates adopting the rules will have no indirect fiscal impacts to permitted TSD businesses. The businesses already report annually, and the proposed rules do not add facilities.

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

For the purpose of this discussion, a small business has 50 or fewer employees.

**Direct Impacts**

The proposed rule changes will not affect most small business in Oregon. This is because the rules only affect businesses generating more than 220 pounds a month of hazardous waste or more than 2.2 pounds of acutely hazardous waste. DEQ identified 131 small businesses the rules will affect.

DEQ determined the proposed rules would have direct economic impact on all small businesses that report generated hazardous wastes.

DEQ determined the economic impacts on these small businesses will not likely pose a significant impact due to the phased-in multi-year stepped increases. The direct impacts are outlined in the tables below for small business generators and permittees.

Proposed Fee type	Generator - Small Business Fiscal Impact by 2024
Annual Activity Verification Generator	SQG: \$240 increase (80 small businesses)
	LQG: \$425 increase (51 small businesses)
Management Method Fee factors  (This increase would result in three (3) additional LQGs reaching the cap.)  (To provide the most accurate representation of future impacts, this analysis does not include spills, cleanup, remediation or closed facilities.)	SQG: \$695 average increase (80 small businesses)
	LQG: \$3,726 average increase (51 small businesses)

<b>Management Method Fee factors Small Business Impacts Estimated Breakdown</b>			
<b>SQG</b>		<b>LQG</b>	
<b>Increase</b>	<b># Generators</b>	<b>Increase</b>	<b># Generators</b>
\$1,001 - \$4,000	18	\$10,001 - \$20,000	6
\$501 - \$1,000	14	\$5,001 - \$10,000	7 (1*)
\$100 - \$500	36	\$1,000 - \$5,000	20 (1*)
< \$100	12	< \$1,000	18 (1*)
<b>Total</b>	<b>80</b>	<b>Total</b>	<b>51</b>
*Denotes facilities that will reach the cap based on the increase.			

<b>Proposed Fee type</b>	<b>Permitted Facility - Small Business Fiscal Impact by 2019</b>
Permitting fees	Oregon's two permitted TSD sites are national companies with more than 50 employees, and are not small businesses.

The following presents a comparison of generator pre-rule and post-rule implementation invoices for five facilities. The facilities chosen represent the 25<sup>th</sup>, 50<sup>th</sup>, 75<sup>th</sup>, 90<sup>th</sup>, and 95<sup>th</sup> percentile based on the volume of hazardous waste generated for calendar year 2017, as reported in 2018.

<b>Estimated Invoices for Small <sup>(1)</sup> and Large <sup>(2)</sup> Quantity Generators</b>										
<b>Cost</b>	<b>Percentile</b>									
	<b>25<sup>th</sup> (1)</b>		<b>50<sup>th</sup> (1)</b>		<b>75<sup>th</sup> (2)</b>		<b>90<sup>th</sup> (2)</b>		<b>95<sup>th</sup> (2)</b>	
	2018	2024	2018	2024	2018	2024	2018	2024	2018	2024
Verification Fee	\$300	\$540	\$300	\$540	\$525	\$945	\$525	\$945	\$525	\$945
Mgt. Method Factor	\$104	\$289	\$226	\$629	\$1,004	\$2,792	\$3,166	\$8,808	\$21,799	\$32,500
Projected Increase	\$425		\$643		\$2,213		\$6,067		\$11,126	

Proposed Fee type	Permitted Facility - Small Business Fiscal Impact by 2019
Permitting Annual Compliance Determination fees	This increase is unlikely to directly affect small businesses. Oregon's two permitted TSD facilities are national companies with more than 50 employees nationwide.
New Operating TSD Disposal Administrative Fee	<p>If the \$5.50 per metric ton is passed directly to small businesses, the estimated impacts will be as follows, based on DEQ 2017 reported hazardous waste disposal data:</p> <ul style="list-style-type: none"> <li>• Average annual increase to the 29 CEGs \$21.45</li> <li>• Average annual increase to the 24 SQGs \$10.29</li> <li>• Average annual increase to the 17 LQGs \$109.71</li> </ul>

**Indirect Impacts**

The proposed rules would have the same indirect costs as “Large Businesses.”

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

Using recent employment data, DEQ compared the 487 businesses registered with the Hazardous Waste Program to current self-reported employment data to determine how many businesses employ 50 or fewer employees. One hundred and thirty-one are small businesses. Of those 131 businesses, 51 are large quantity hazardous waste generators, and 80 are small quantity hazardous waste generators. One is a conditionally exempt generator and thus not subject to the proposed rule.

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

No additional activities are required to comply with the proposed rules. Registered hazardous waste generators already pay hazardous waste fees.

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

No additional resources are required for compliance with the proposed rules. Registered hazardous waste generators already pay hazardous waste fees.

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

DEQ included small business representatives and delegates from Oregon Business and Industry who represent small businesses in Oregon on the Hazardous Waste Fee Advisory Committee. The Committee advised DEQ on the cost of compliance for small businesses.

DEQ will also provide the rulemaking notice to all hazardous waste businesses registered and who reported as fee-payers within the last three years with Oregon DEQ. These groups included small businesses. Small businesses will also have the opportunity to comment through the public comment and public hearing.

## Documents relied on for fiscal economic impact

Document title	Document location
Oregon Department of Environmental Quality Annual Hazardous Waste Reporting for disposal in 2016 as reported in 2017	Oregon DEQ Hazardous Waste Program 700 NE Multnomah St, Ste. 600 Portland, OR 97232-1400
Oregon Department of Environmental Quality Annual Hazardous Waste Reporting for disposal in 2017 as reported in 2018	Oregon DEQ Hazardous Waste Program 700 NE Multnomah St, Ste. 600 Portland, OR 97232-1400
Oregon Department of Employment 2016 data	Employment Department 875 Union Street NE Salem OR 97311

## Advisory committee fiscal review

DEQ convened a nine-member advisory committee that also served as the fiscal advisors in the fee-setting process. The committee consisted of statewide, geographic representation, directly and indirectly affected regulated parties for large and small businesses, business advocates and environmental interests.

During the last committee meeting, DEQ asked the committee to review the draft and consider the fiscal impacts of the proposed rules, as OAR 183.333 requires. DEQ specifically asked the committee:

- a. Will the rule have a fiscal impact?
- b. If so, what is the extent of the fiscal impact?
- c. Will the rule have a significant adverse impact on small businesses (<50 employees)?
- d. If so, how can DEQ reduce the economic impact of the rule on small businesses?

## Committee Findings

The committee determined the proposed rules will have economic impacts to all hazardous waste fee payers. The proposed rules will affect all hazardous waste annual reporters, including some businesses that may intermittently generate and report hazardous waste due

to a one-time cleanout or other infrequent activity. The impact will be different for each business.

The committee did not identify significant adverse impact on small businesses in Oregon. Without additional information, such as business revenues not readily available, the full impact to small businesses is difficult to determine. To help minimize the impacts to businesses, the proposed generator fee increases will be phased-in over multiple years.

The committee meeting notes are posted to DEQ's Hazardous Waste Fees 2019 Rulemaking web page: [Advisory Committee Webpage](#).

## Housing cost

ORS 183.534 requires DEQ to evaluate whether the proposed rules would affect 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 proposed rules only affect regulated businesses under the hazardous waste regulations.

## Federal relationship

### Relationship to federal requirements

ORS 183.332, 468A.327 and OAR 340-011-0029 require DEQ to attempt to adopt rules that correspond with existing equivalent federal laws and rules unless there are reasons not to do so.

The proposed rules are not different from or in addition to federal requirements in 40 Code of Federal Regulations 260-268, 270, 273, and Subpart A and Subpart B of part 124.

## Land use

### Land-use considerations

In adopting new or amended rules, ORS 197.180 and OAR 340-018-0070 require DEQ to determine whether the proposed rules significantly affect land use. If so, DEQ must explain how the proposed rules comply with statewide land-use planning goals and local acknowledged comprehensive plans.

Under OAR 660-030-0005 and OAR 340 Division 18, DEQ considers that rules affect land use if:

- The statewide land use planning goals specifically refer to the rule or program
- The rule or program is reasonably expected to have significant effects on:
  - Resources, objectives or areas identified in the statewide planning goals,
  - Present or future land uses identified in acknowledged comprehensive plans

DEQ determined whether the proposed rules involve programs or actions that affect land use by reviewing its Statewide Agency Coordination plan. The plan describes the programs that DEQ determined significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

Goal	Title
5	Open Spaces, Scenic and Historic Areas, and Natural Resources
6	Air, Water and Land Resources Quality
9	Ocean Resources
11	Public Facilities and Services
16	Estuarial Resources

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

### Determination

DEQ determined these proposed rules do not affect land use under OAR 340-018-0030 or DEQ’s State Agency Coordination Program.

## EQC Prior Involvement

DEQ did not present additional information specific to this proposed rule revision.

## Advisory Committee

### Background

DEQ’s nine-member advisory committee, serving as the fiscal advisors in the fee-setting process, met three times in 2018: Aug. 8, Sept. 13 and Oct. 18. Supporting documents are located on the committee’s webpage at: [Hazardous Waste Fees 2019 Rulemaking](#).

The Committee members were:

<b>Hazardous Waste Fees Rulemaking Advisory Committee</b>	
<b>Name</b>	<b>Representing</b>
Keri Bishop	Large Quantity Generator, Northwest

<b>Hazardous Waste Fees Rulemaking Advisory Committee</b>	
<b>Name</b>	<b>Representing</b>
Jim Denson, Jr.	Hazardous Waste Permittee, Large Quantity Generator, Eastern
Michael Doherty	Small Business, Small Quantity Generator, Northwest
Lori Grant	Environment, Statewide
Bruce Johnson	Large Quantity Generator, Eastern
Marjorie MartzEmerson	Environment, Small Businesses Statewide, Eastern
Matthew Sauvageau	Hazardous Waste Permittee, Large Quantity Generator, Northwest
Mike Standen	Small Quantity Generator, Small Business, Western
Geoffrey B. Tichenor	Oregon Business & Industry, Small Businesses, Statewide
Kim Kaminski (Alternate)	Hazardous Waste Permittee, Large Quantity Generator, Northwest
Amber Petersen (Alternate)	Large Quantity Generator, Eastern
Leah Shannon (Alternate)	Hazardous Waste Permittee, Large Quantity Generator, Eastern
Sheila Smith (Alternate)	Hazardous Waste Permittee, Large Quantity Generator, Northwest

### **Meeting notifications**

DEQ notified 23,744 people about the Advisory Committee's activities by:

- Sending GovDelivery bulletins, a free e-mail subscription service, to the following lists:
  - Hazardous Waste - 3,009
  - Hazardous Waste Training – 6,599
  - Toxics Use and Hazardous Waste Reduction Program – 2,783
  - Rulemaking – 8,316
  - DEQ Public Notices – 3,037
- DEQ also sent on July 25, Sept. 4, and Oct. 10, 2018, notices to the above GovDelivery subscribers to describe how to sign up for committee meeting notices

## Committee discussions

In addition to the recommendations described in the Statement of Fiscal and Economic Impact section, the committee provided input and discussion on the proposed draft rules. Agendas, meeting summaries, and presentation slides are available on the committee's webpage at: [Hazardous Waste Fees 2019 Rulemaking](#).

## Public Notice

DEQ will provide notice of the proposed rulemaking and rulemaking hearing on Jan. 17, 2019, by:

- One December 14, 2018, filing notice with the Oregon Secretary of State for publication in the January 2019 Oregon Bulletin
- Notifying the EPA by mail
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at: [Hazardous Waste Fees 2019 Rulemaking](#)
- Emailing 23,744 interested parties on the following DEQ lists through GovDelivery:
  - Hazardous Waste - 3,009
  - Hazardous Waste Training – 6,599
  - Toxics Use and Hazardous Waste Reduction Program – 2,783
  - Rulemaking – 8,316
  - DEQ Public Notices – 3,037
- Emailing 1014 hazardous waste generator reporters for last three years in DEQ's reporting database.
- Emailing the following key legislators required under ORS 183.335:
  - Senator Michael Dembrow, Chair, Senate Interim Committee on Environment and Natural Resources
  - Senator Alan Olsen, Vice-Chair, Senate Interim Committee on Environment and Natural Resources
  - Representative Ken Helm, Chair, House Interim Committee on Energy and Environment
  - Representative Karin Power, Vice-Chair, House Interim Committee on Energy and Environment.
- Emailing Advisory Committee members,
- Postings on Twitter and Facebook
- Posting on the DEQ event calendar: [DEQ Calendar](#)

## Public Comment

### How to comment on the proposed rules:

#### Submit comment online using this link:

[Hazardous Waste Fees Comment Web Page](#)

#### Note for public university students:

Oregon Revised Statute 192.501(29) allows Oregon public university and OHSU students to protect their university email addresses from disclosure under Oregon's public records law. If you are an Oregon public university or OHSU student, you may omit your email address when you complete the online form to submit a comment.

#### By mail

Oregon DEQ  
Attn: Jeannette Acomb  
700 Multnomah St, Suite 600  
Portland, OR 97232-1400

#### At the hearing

Jan. 17, 2019, at 6 p.m.

You can also participate in the hearing through a teleconference:

Teleconference call-in number: 888-363-4734

Participant ID: 1910322

How to join the teleconference: [Teleconference and Webinar instructions](#)

#### Close of public comment period

The comment period will close 4 p.m. on Tuesday, Jan. 22, 2019.

## Public Hearing

DEQ plans to hold one public hearing. The details are listed below. Anyone can attend a hearing in person, or by teleconference.

DEQ will consider all written comments received at the hearings listed below before completing the draft rules. DEQ will summarize all comments and respond to comments in the Oregon Environmental Quality Commission staff report.

Hearing	
Date	Jan. 17, 2019
Time	6 p.m.
Street Address	700 NE Multnomah St, Room 610
City	Portland, OR
Presiding Officer	Jeannette Acomb or other
Staff Presenters	Rich Duval, Killian Condon
Call-in Phone Number	888-363-4734
Participant ID	1910322
Instructions on how to access teleconference	<a href="#">Teleconference instructions</a>

DEQ will consider all written comments received, including at the hearing listed above before completing the draft rules. DEQ will summarize all comments and respond to comments in the Oregon Environmental Quality Commission staff report.

Any person can submit comments on the proposed rules as described in the introduction section of this document.

# Draft Rules - With Edits Highlighted

## Division 102

### STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

#### 340-102-0065

#### Hazardous Waste Generator Fees

(1)(a) A person must pay an annual hazardous waste generation fee if that person:

(A) Generates more than 100 kilograms (220 pounds) of hazardous waste in any calendar month, or

(B) Generates more than 1 kilogram (2.2 pounds) of acutely hazardous waste in any calendar month, or

(C) Accumulates more than 1,000 kilograms (2,200 pounds) of hazardous waste at any time in a calendar year.

(b) The Department will assess fees annually for hazardous waste management activities conducted in the previous year.

(2)(a) The Department will assess a late charge equal to ten percent of the fee due if the Department does not receive the fees by the due date on the invoice.

(b) The Department will assess an additional late charge of ten percent of the unpaid amount for each 30 days that the invoice remains unpaid.

(c) The Department will not assess any additional late charges ~~A~~after 90 days. ~~no further Department late charges shall be assessed;~~ ~~h~~However, the Department may refer such invoices ~~may be referred~~ to the Department of Revenue for collection or ~~collected~~ collect them in Small Claims Court. The Department will increase ~~A~~accounts referred to the Department of Revenue for collection or collected in Small Claims Court ~~shall be increased~~ by 20 percent of the unpaid amount or \$100, whichever is greater, to recover a portion of the costs for referral or collection.

(3)(a) ORS 466.165 sets the base hazardous waste generation fee.

(b) In order to determine annual hazardous waste generation fees, the Department may use generator reports required by OAR 340-102-0041, facility reports required by OAR 340-104-0075, information derived from manifests required by 40 C.F.R. Section 262.20, and any other relevant information.

(c) Unless density information is reported, the Department will use the following conversion factors: one metric ton = 1,000 kilograms = 2,205 pounds = 1.10 short tons = 1.31 cubic yards = 264.23 gallons = 4.80 drums (55 gallon).

(de) The Department will calculate each person's hazardous waste generation fee by multiplying the base fee by the weight of each hazardous waste stream and by the fee factors listed below in Table 1 for the management method the person reports in the annual generation report (OAR 340-102-0041), as follows:

<b>OAR 340-102-0065</b>							
<b>Table 1</b>							
<b>Management Method Fee Factor</b>							
<b>Rule</b>	<b>Description</b>	<b>Calendar Year</b>					
		<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024 &amp; After</b>
(A)	Metals Recovery (for Reuse)	0.56	0.66	0.69	0.74	0.80	0.85
(B)	Solvents Recovery	0.56	0.66	0.69	0.74	0.80	0.85
(C)	Other Recovery	0.56	0.66	0.69	0.74	0.80	0.85
(D)	Hazardous wastewater that is not managed immediately upon generation only in on-site elementary neutralization (ENU) or waste water treatment unit(s) (WWTU)	0.56	0.66	0.69	0.74	0.80	0.85
(E)	Incineration	1.12	1.31	1.38	1.49	1.59	1.70
(F)	Energy Recovery (Reuse as Fuel)	0.84	0.98	1.03	1.11	1.19	1.28
(G)	Fuel Blending	0.84	0.98	1.03	1.11	1.19	1.28
(H)	Aqueous Inorganic Treatment	1.12	1.31	1.38	1.49	1.59	1.70
(I)	Aqueous Organic Treatment	1.12	1.31	1.38	1.49	1.59	1.70
(J)	Aqueous Organic and Inorganic Treatment (Combined)	1.12	1.31	1.38	1.49	1.59	1.70
(K)	Sludge Treatment	1.12	1.31	1.38	1.49	1.59	1.70
(L)	Other Treatment	1.12	1.31	1.38	1.49	1.59	1.70
(M)	Stabilization	1.12	1.31	1.38	1.49	1.59	1.70
(N)	Neutralization (offsite)	0.84	0.98	1.03	1.11	1.19	1.28
(O)	Land Disposal	1.68	1.97	2.06	2.23	2.39	2.55
(P)	Management method unknown or not reported	2.24	2.62	2.75	2.97	3.18	3.40
(Q)	RCRA-Exempt Management Elementary Neutralization Unit(s) on-site (Includes only corrosive	0.00	0.00	0.00	0.00	0.00	0.00

	<u>characteristic hazardous waste that is managed immediately upon generation only in an on-site elementary neutralization unit(s)</u>						
(R)	<u>Permitted Discharge under Clean Water Act Section 402 or 307b (Includes only hazardous wastewater that is managed immediately upon generation only in an on-site wastewater treatment unit(s))</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
(S)	<u>Grant-funded environmental cleanup of a Brownfield or orphaned industrial property involving hazardous waste residues for off-site treatment and/or landfill disposal</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>

~~(A) Management Method—Fee Factor;~~

~~(B) Metals Recovery (For Reuse)—0.50;~~

~~(C) Solvents Recovery—0.50;~~

~~(D) Other Recovery—0.50;~~

~~(E) Hazardous wastewater that is not managed immediately upon generation only in on-site elementary neutralization unit(s) (ENU) or wastewater treatment unit(s) (WWTU)—0.50;~~

~~(F) Incineration—1.00;~~

~~(G) Energy Recovery (Reuse as Fuel)—0.75;~~

~~(H) Fuel Blending—0.75;~~

~~(I) Aqueous Inorganic Treatment—1.00;~~

~~(J) Aqueous Organic Treatment—1.00;~~

~~(K) Aqueous Organic and Inorganic Treatment (Combined)—1.00;~~

~~(L) Sludge Treatment—1.00;~~

~~(M) Other Treatment—1.00;~~

~~(N) Stabilization—1.00;~~

~~(O) Neutralization (offsite)—0.75;~~

~~(P) Land Disposal — 1.50;~~

~~(Q) Management method unknown or not reported — 2.00;~~

~~(R) RCRA-Exempt Management Elementary Neutralization Unit(s) on-site (Includes only corrosive characteristic hazardous waste that is managed immediately upon generation only in an on-site elementary neutralization unit(s)) — 0.00;~~

~~(S) Permitted Discharge under Clean Water Act Section 402 or 307b (Includes only hazardous wastewater that is managed immediately upon generation only in an on-site wastewater treatment unit(s)) — 0.00.~~

(4) Effective ~~July~~<sup>January</sup> 1, ~~2019~~<sup>2017</sup>, in addition to the annual hazardous waste generation fee, each hazardous waste generator ~~must pay~~ ~~shall be subject to~~ an annual hazardous waste activity verification fee listed in Table 2, due when the Department bills for that fee~~upon billing by the Department, as follows:~~

<b>OAR 340-102-0065</b>				
<b>Table 2</b>				
<b>Annual Hazardous Waste Generation Fees</b>				
<u>Rule</u>	<u>Description</u>	<u>Calendar Year 2019</u>	<u>Calendar Year 2020</u>	<u>Calendar Year 2021 &amp; After</u>
<u>(a)</u>	<u>Large Quantity Generator</u>	<u>\$656</u>	<u>\$788</u>	<u>\$945</u>
<u>(b)</u>	<u>Small Quantity Generator</u>	<u>\$375</u>	<u>\$450</u>	<u>\$540</u>
<u>(c)</u>	<u>Conditionally Exempt Small Quantity Generator</u>	<u>No Fee</u>	<u>No Fee</u>	<u>No Fee</u>

~~(a) Large Quantity Generator: \$525;~~

~~(b) Small Quantity Generator: \$300;~~

~~(c) Conditionally Exempt Small Quantity Generator: No Fee.~~

**Statutory/Other Authority:** ORS 466.165 & 468.020

**Statutes/Other Implemented:** ORS 466.165

**History:**

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

DEQ 2-2009, f. & cert. ef. 6-25-09

DEQ 8-2005, f. & cert. ef. 7-14-05

DEQ 11-1998, f. & cert. ef. 6-26-98

DEQ 14-1997, f. & cert. ef. 7-23-97

DEQ 2-1994, f. & cert. ef. 2-2-94

DEQ 11-1992, f. & cert. ef. 6-9-92

DEQ 13-1991, f. & cert. ef. 8-5-91

DEQ 33-1989, f. & cert. ef. 12-14-89

DEQ 19-1989(Temp), f. & cert. ef. 7-31-89 (and corrected 8-3-89)  
DEQ 11-1988, f. & cert. ef. 5-19-88  
DEQ 14-1987, f. & ef. 7-28-87  
DEQ 8-1985, f. & ef. 7-25-85

**Division 105  
MANAGEMENT FACILITY PERMITS**

**340-105-0113  
Fee Schedules**

(1) Management Facility Annual Compliance Determination Fee: ~~(4)~~

(a) Each permitted or interim status Hazardous Waste Management Facility subject to 40 CFR Sections 264, 265, 270 and OAR 340, with an active operating hazardous waste management unit(s), a hazardous waste management unit(s) undergoing closure (including any required closure certification), or a hazardous waste management unit(s) in post-closure, must pay ~~is subject to~~ the Annual Compliance Determination Fee(s) set forth in section (3).

(b) In calculating the Annual Compliance Determination Fee, the Department shall not include ~~For a facility that has~~ an inactive unit, or units, in post-closure, with a release or releases subject to corrective action, ~~the Department shall not include such units in calculating the Annual Compliance Determination Fee.~~

(c) Where a facility has unit(s) ~~that~~ which become subject to corrective action cost recovery, the Department shall prorate the Annual Compliance Determination Fee for that year ~~shall be prorated based upon the period before prior to implementation of~~ corrective action cost recovery is implemented.

(2) Where more than one hazardous waste management activity takes place at a single facility, the Department will assess all of the applicable category Annual Compliance Determination Fees in 340-105-0113(3) ~~will be assessed.~~

(3) Annual Compliance Determination Fees:

(a) Storage — ~~\$1824,500~~ \$750,000.

(b) Treatment:

(A) Single Technology — ~~\$3749,500~~ \$500,000.

(B) Multiple Technology — ~~\$7598,050~~ \$500,000.

(c) Disposal Facility:

(A) Single Disposal Unit — ~~\$7598,500~~ \$500,000.

(B) Multiple Disposal Units — ~~\$150196,500~~ \$500,000.

(d) Post-Closure Facility — ~~\$1824,500~~ \$750,000.

(e) Permitted Operating Hazardous Waste Disposal Administrative Fee: In addition to the fee assessed under paragraph (c) of this section, the Department will assess operating permitted disposal facilities an annual administrative fee of \$5.50 per metric ton of waste disposed into a permitted Subtitle C land disposal unit.

~~(4) Permit Modification Fee: Upon discussion with the permittee to determine the appropriate permit modification classification, the Department will assess the applicant ~~shall be assessed~~ for any permit modification, excluding modifications related to corrective action, as follows:~~

~~(a) Each Class 1 Permit Modifications:~~

~~(A) Class 1 Low Workload: \$425.~~

~~(B) Class 1 Medium Workload: \$1,500.~~

~~(C) Class 1 High Workloads: \$24,850.~~

~~(b) Class 2 Permit Modifications:~~

~~(A) The permittee must~~shall~~ submit a separate permit modification request for each unrelated category of Class 2 permit change in 40 C.F.R. Section 270.42, Appendix 1.~~

~~(A) Class 2 Permit Modifications with Low Workload: \$5,000.~~

~~(B) Each Class 2 Permit Modifications with Medium Workload or Many Changes: \$10,000.~~

~~(C) Class 2 Permit Modifications with High Workload: \$3120,0800.~~

~~(D) Class 2 Permit Modification to be processed as Class 3 pursuant to 40 CFR 270.42(b)(6): \$31,000.~~

~~(c) Each Class 3 Permit Modifications:~~

~~(A) Class 3 Permit Modifications with Low Workload: \$7,500.~~

~~(B) Class 3 Permit Modifications with Medium Workload or Many Changes: \$15,000.~~

~~(C) Class 3 Permit Modifications with High Workload: \$4931,3000.~~

~~(B) Class 2 Permit Modifications with Medium Workload or Many Changes: \$10,000.~~

(d) If the permittee withdraws any permit modification request, the Department shall refund 50% of the balance of the fee if paid in full, if the Department has done less than 50% of work to complete processing ~~of the action~~ ~~has been done~~.

(e) The Department shall also assess ~~P~~ permittees ~~shall also be assessed~~ fees under this section for agency-initiated, legally required modifications.

(5) Hazardous Waste RCRA Exemption Fee:

(a) The Department will assess ~~E~~ each person(s) requesting the following activities ~~shall be assessed~~ a standard fee ~~in the amount~~ of \$30,000:

(A) Hazardous waste delisting or declassification ~~under~~ ~~pursuant to~~ 40 C.F.R. Part 260 and ORS 466.015.

(B) A variance from treatability or from the definition of hazardous waste or solid waste.

(C) A petition for universal waste listing.

(b) Within 60 days after receiving ~~of receipt of~~ a request for a hazardous waste delisting and declassification, variance from treatability or from the definition of hazardous waste or solid waste, or hazardous waste petition for a universal waste listing, the Department may determine that the nature of the request, including the complexity of the proposed action and the factors required to be met for the request to be processed, indicate that a higher fee would be required. If the Department makes such a determination, the Department ~~shall~~ ~~will~~ require the requestor to pay ~~payment of~~ a higher fee, but not to exceed an additional \$100,000. The Department ~~shall~~ ~~will~~ notify the person requesting the exemption that an additional fee is required. Upon receiving ~~receipt of~~ such a notification, the person may discuss with the Department the amount of the fee and the scope of the Department's regulatory activities associated with investigating and processing the request. The person may withdraw the request or petition and be eligible for a refund of fees paid as described in paragraph (c) of this section.

(c) If the person requesting the exemption withdraws a request for a hazardous waste delisting and declassification, variance from treatability, or from the definition of hazardous waste or solid waste, or hazardous waste petition for universal waste listing, the Department shall refund fees paid depending upon the timing of the withdrawal:

(A) If the person withdraws the request or petition ~~is withdrawn before~~ ~~prior to~~ or within 30 days of notification, the Department will estimate the effort to date and refund any excess fee balance.

(B) If the person withdraws the request or petition ~~is withdrawn~~ more than 30 days after notification that an additional fee is required, the Department will refund 50% of the balance of the fee paid, if the Department has done less than 50% of the work to complete ~~the processing of~~ the requested action ~~has been done~~.

~~[ED. NOTE: Appendices referenced are available from the agency.]~~

**Statutory/Other Authority:** ORS 466.020, 466.045, 466.075, 466.165, 466.195 & 468.020

**Statutes/Other Implemented:** ORS 466.045 & 466.165

**History:**

DEQ 11-1998, f. & cert. ef. 6-26-98

DEQ 14-1997, f. & cert. ef. 7-23-97

DEQ 13-1991, f. & cert. ef. 8-5-91

DEQ 33-1989, f. & cert. ef. 12-14-89

DEQ 19-1989(Temp), f. & cert. ef. 7-31-89 (and corrected 8-3-89)

DEQ 11-1988, f. & cert. ef. 5-19-88

DEQ 14-1987, f. & ef. 7-28-87

DEQ 22-1986, f. & ef. 12-19-86

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

# Draft Rules – With Edits Incorporated

## **Division 102**

### **STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE**

#### **340-102-0065**

##### **Hazardous Waste Generator Fees**

(1)(a) A person must pay an annual hazardous waste generation fee if that person:

(A) Generates more than 100 kilograms (220 pounds) of hazardous waste in any calendar month, or

(B) Generates more than 1 kilogram (2.2 pounds) of acutely hazardous waste in any calendar month, or

(C) Accumulates more than 1,000 kilograms (2,200 pounds) of hazardous waste at any time in a calendar year.

(b) The Department will assess fees annually for hazardous waste management activities conducted in the previous year.

(2)(a) The Department will assess a late charge equal to ten percent of the fee due if the Department does not receive the fees by the due date on the invoice.

(b) The Department will assess an additional late charge of ten percent of the unpaid amount for each 30 days that the invoice remains unpaid.

(c) The Department will not assess any additional late charges after 90 days. However, the Department may refer such invoices to the Department of Revenue for collection or collect them in Small Claims Court. The Department will increase accounts referred to the Department of Revenue for collection or collected in Small Claims Court by 20 percent of the unpaid amount or \$100, whichever is greater, to recover a portion of the costs for referral or collection.

(3)(a) ORS 466.165 sets the base hazardous waste generation fee.

(b) In order to determine annual hazardous waste generation fees, the Department may use generator reports required by OAR 340-102-0041, facility reports required by OAR 340-104-0075, information derived from manifests required by 40 C.F.R. Section 262.20, and any other relevant information.

(c) Unless density information is reported, the Department will use the following conversion factors: one metric ton = 1,000 kilograms = 2,205 pounds = 1.10 short tons = 1.31 cubic yards = 264.23 gallons = 4.80 drums (55 gallon).

(d) The Department will calculate each person's hazardous waste generation fee by multiplying the base fee by the weight of each hazardous waste stream and by the fee factors listed in Table 1 for the management method the person reports in the annual generation report (OAR 340-102-0041).

<b>OAR 340-102-0065</b>							
<b>Table 1</b>							
<b>Management Method Fee Factor</b>							
<b>Rule</b>	<b>Description</b>	<b>Calendar Year</b>					
		<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024 &amp; After</b>
(A)	Metals Recovery (for Reuse)	0.56	0.66	0.69	0.74	0.80	0.85
(B)	Solvents Recovery	0.56	0.66	0.69	0.74	0.80	0.85
(C)	Other Recovery	0.56	0.66	0.69	0.74	0.80	0.85
(D)	Hazardous wastewater that is not managed immediately upon generation only in on-site elementary neutralization (ENU) or waste water treatment unit(s) (WWTU)	0.56	0.66	0.69	0.74	0.80	0.85
(E)	Incineration	1.12	1.31	1.38	1.49	1.59	1.70
(F)	Energy Recovery (Reuse as Fuel)	0.84	0.98	1.03	1.11	1.19	1.28
(G)	Fuel Blending	0.84	0.98	1.03	1.11	1.19	1.28
(H)	Aqueous Inorganic Treatment	1.12	1.31	1.38	1.49	1.59	1.70
(I)	Aqueous Organic Treatment	1.12	1.31	1.38	1.49	1.59	1.70
(J)	Aqueous Organic and Inorganic Treatment (Combined)	1.12	1.31	1.38	1.49	1.59	1.70
(K)	Sludge Treatment	1.12	1.31	1.38	1.49	1.59	1.70
(L)	Other Treatment	1.12	1.31	1.38	1.49	1.59	1.70
(M)	Stabilization	1.12	1.31	1.38	1.49	1.59	1.70
(N)	Neutralization (offsite)	0.84	0.98	1.03	1.11	1.19	1.28
(O)	Land Disposal	1.68	1.97	2.06	2.23	2.39	2.55
(P)	Management method unknown or not reported	2.24	2.62	2.75	2.97	3.18	3.40
(Q)	RCRA-Exempt Management Elementary Neutralization Unit(s) on-site (Includes only corrosive	0.00	0.00	0.00	0.00	0.00	0.00

	characteristic hazardous waste that is managed immediately upon generation only in an on-site elementary neutralization unit(s))						
(R)	Permitted Discharge under Clean Water Act Section 402 or 307b (Includes only hazardous wastewater that is managed immediately upon generation only in an on-site wastewater treatment unit(s))	0.00	0.00	0.00	0.00	0.00	0.00
(S)	Grant-funded environmental cleanup of a Brownfield or orphaned industrial property involving hazardous waste residues for off-site treatment and/or landfill disposal	0.00	0.00	0.00	0.00	0.00	0.00

(4) Effective July 1, 2019, in addition to the annual hazardous waste generation fee, each hazardous waste generator must pay an annual hazardous waste activity verification fee listed in Table 2, due when the Department bills for that fee.

<b>OAR 340-102-0065</b>				
<b>Table 2</b>				
<b>Annual Hazardous Waste Generation Fees</b>				
<b>Rule</b>	<b>Description</b>	<b>Calendar Year 2019</b>	<b>Calendar Year 2020</b>	<b>Calendar Year 2021 &amp; After</b>
(a)	Large Quantity Generator	\$656	\$788	\$945
(b)	Small Quantity Generator	\$375	\$450	\$540
(c)	Conditionally Exempt Small Quantity Generator	No Fee	No Fee	No Fee

**Statutory/Other Authority:** ORS 466.165 & 468.020

**Statutes/Other Implemented:** ORS 466.165

**History:**

DEQ 5-2015, f. & cert. ef. 4-15-15  
 DEQ 2-2009, f. & cert. ef. 6-25-09  
 DEQ 8-2005, f. & cert. ef. 7-14-05  
 DEQ 11-1998, f. & cert. ef. 6-26-98  
 DEQ 14-1997, f. & cert. ef. 7-23-97  
 DEQ 2-1994, f. & cert. ef. 2-2-94  
 DEQ 11-1992, f. & cert. ef. 6-9-92  
 DEQ 13-1991, f. & cert. ef. 8-5-91  
 DEQ 33-1989, f. & cert. ef. 12-14-89  
 DEQ 19-1989(Temp), f. & cert. ef. 7-31-89 (and corrected 8-3-89)  
 DEQ 11-1988, f. & cert. ef. 5-19-88  
 DEQ 14-1987, f. & ef. 7-28-87  
 DEQ 8-1985, f. & ef. 7-25-85

**Division 105**  
**MANAGEMENT FACILITY PERMITS**

**340-105-0113**  
**Fee Schedules**

(1) Management Facility Annual Compliance Determination Fee:

(a) Each permitted or interim status Hazardous Waste Management Facility subject to 40 CFR Sections 264, 265, 270 and OAR 340, with an active operating hazardous waste management unit(s), a hazardous waste management unit(s) undergoing closure (including any required closure certification), or a hazardous waste management unit(s) in post-closure, must pay the Annual Compliance Determination Fee(s) set forth in section (3).

(b) In calculating the Annual Compliance Determination Fee, the Department shall not include an inactive unit, or units, in post-closure, with a release or releases subject to corrective action.

(c) Where a facility has unit(s) that become subject to corrective action cost recovery, the Department shall prorate the Annual Compliance Determination Fee for that year based on the period before corrective action cost recovery is implemented.

(2) Where more than one hazardous waste management activity takes place at a single facility, the Department will assess all of the applicable category Annual Compliance Determination Fees in 340-105-0113(3).

(3) Annual Compliance Determination Fees:

(a) Storage — \$24,500.

(b) Treatment:

(A) Single Technology — \$49,500.

(B) Multiple Technology — \$98,500.

(c) Disposal Facility:

(A) Single Disposal Unit — \$98,500.

(B) Multiple Disposal Units — \$196,500.

(d) Post-Closure Facility — \$24,500.

(e) Permitted Operating Hazardous Waste Disposal Administrative Fee: In addition to the fee assessed under paragraph (c) of this section, the Department will assess operating permitted disposal facilities an annual administrative fee of \$5.50 per metric ton of waste disposed into a permitted Subtitle C land disposal unit.

(4) Permit Modification Fee: Upon discussion with the permittee to determine the appropriate permit modification classification, the Department will assess the applicant for any permit modification, excluding modifications related to corrective action, as follows:

(a) Each Class 1 Permit Modifications: \$4,500.

(b) Class 2 Permit Modifications:

(A) The permittee must submit a separate permit modification request for each unrelated category of Class 2 permit change in 40 C.F.R. Section 270.42, Appendix 1.

(B) Each Class 2 Permit Modifications: \$31,800.

(c) Each Class 3 Permit Modifications: \$49,300.

(d) If the permittee withdraws any permit modification request, the Department shall refund 50% of the balance of the fee if paid in full, if the Department has done less than 50% of work to complete processing the action.

(e) The Department shall also assess permittees fees under this section for agency-initiated, legally required modifications.

(5) Hazardous Waste RCRA Exemption Fee:

(a) The Department will assess each person(s) requesting the following activities a standard fee of \$30,000:

(A) Hazardous waste delisting or declassification under 40 C.F.R. Part 260 and ORS 466.015.

(B) A variance from treatability or from the definition of hazardous waste or solid waste.

(C) A petition for universal waste listing.

(b) Within 60 days after receiving a request for a hazardous waste delisting and declassification, variance from treatability or from the definition of hazardous waste or solid waste, or hazardous waste petition for a universal waste listing, the Department may determine that the nature of the request, including the complexity

of the proposed action and the factors required to be met for the request to be processed, indicate that a higher fee would be required. If the Department makes such a determination, the Department will require the requestor to pay a higher fee, but not to exceed an additional \$100,000. The Department will notify the person requesting the exemption that an additional fee is required. Upon receiving such a notification, the person may discuss with the Department the amount of the fee and the scope of the Department's regulatory activities associated with investigating and processing the request. The person may withdraw the request or petition and be eligible for a refund of fees paid as described in paragraph (c) of this section.

(c) If the person requesting the exemption withdraws a request for a hazardous waste delisting and declassification, variance from treatability, or from the definition of hazardous waste or solid waste, or hazardous waste petition for universal waste listing, the Department shall refund fees paid depending upon the timing of the withdrawal:

(A) If the person withdraws the request or petition before or within 30 days of notification, the Department will estimate the effort to date and refund any excess fee balance.

(B) If the person withdraws the request or petition more than 30 days after notification that an additional fee is required, the Department will refund 50% of the balance of the fee paid, if the Department has done less than 50% of the work to complete processing the requested action.

**Statutory/Other Authority:** ORS 466.020, 466.045, 466.075, 466.165, 466.195 & 468.020

**Statutes/Other Implemented:** ORS 466.045 & 466.165

**History:**

DEQ 11-1998, f. & cert. ef. 6-26-98

DEQ 14-1997, f. & cert. ef. 7-23-97

DEQ 13-1991, f. & cert. ef. 8-5-91

DEQ 33-1989, f. & cert. ef. 12-14-89

DEQ 19-1989(Temp), f. & cert. ef. 7-31-89 (and corrected 8-3-89)

DEQ 11-1988, f. & cert. ef. 5-19-88

DEQ 14-1987, f. & ef. 7-28-87

DEQ 22-1986, f. & ef. 12-19-86

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