



State of Oregon Department of Environmental Quality

Hazardous Waste Program Rulemaking Advisory Committee

Meeting Notes and Committee Recommendations
February 3, 2016

Overview and purpose

The Oregon Department of Environmental Quality convened an advisory committee to review the fiscal and economic impacts of DEQ's proposed revisions to Oregon's hazardous waste program rules. The committee is known as the Hazardous Waste Rulemaking Advisory Committee.

DEQ requested that the committee provide comments and recommendations on DEQ's proposed rule recommendations including the proposed rules' fiscal and economic impact. DEQ also asked the committee questions about fiscal impact the Administrative Procedures Act (ORS 183.333) requires.

The questions DEQ asked the committee included:

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

The committee met on February 3, 2016, from 9 a.m. to 4 p.m. in DEQ's Portland Headquarters office. Before the meeting, DEQ provided the committee with draft fiscal and economic statements for the proposed Academic Laboratories Generator Standards federal rule with amendment and Conditional Exclusions from Solid Waste and Hazardous Waste for Solvent-Contaminated Wipes federal rules, links to the federal rules DEQ is proposing to incorporate by adoption, and the questions derived from ORS 183.

While DEQ will seek recommendations from the committee on the fiscal impacts of each of the ten proposed rules, DEQ gave a presentation focused on the proposed Academic Lab rule and Wipes rule since they along with 2015 Definition of Solid Waste have the largest potential fiscal and economic impact on Oregon businesses. DEQ did present, as time allowed, six of the other proposed rules during this meeting.

This document includes a summary of the committee's recommendations and the fiscal and economic impact statement of the notice of proposed rulemaking will also include those recommendations. A summary of the key decisions and recommendations is provided at the end of this document.

The proposed rule recommendations provided to the committee were drafts and subject to further development before DEQ opens for the public comment period later this year.

Committee members

All committee members attended the meeting in person except where noted:

Name	Affiliation
Michael Bernard	The Boeing Company
Heath Foott	Bend Research
Matt Hendrickson	University of Oregon
Jim Houser	Hawthorne Auto Clinic, Inc.
James Kincaid	Cable Huston LLP for Waste Management Oregon
Koreen Lail (Alternate)	Siltronic Corp for Associated Oregon Industries
Marjorie MartzEmerson	Pacific NW Pollution Prevention Resource Center
Audrey O'Brien	DEQ (Non-voting) for Materials Management Program
Geoff Tichenor	Stoel Rives LLP for Oregon businesses

Non-committee members at the meeting

DEQ staff:

Name	Title
Rich Duval	Facilitator, Senior Hazardous Waste Inspector
Jeannette Acomb	Project Coordinator, HW Policy Analyst
Laurey Cook	Rule Lead, Hazardous Waste Inspector
Dave LeBrun	Rule Lead, Senior HW Policy Analyst
David Livengood	Sponsor, Hazardous Waste Program Manager
Susan Shewczyk	Rule Lead, Hazardous Waste Inspector
Sarah Wheeler	Advisor, Office of Compliance & Enforcement

Stakeholders and interested parties:

Name	Affiliation
Bret Bruhn	TTM/VIA Systems

Background of the proposed rules

The Environmental Protection Agency delegates authority to the Department of Environmental Quality to operate the federal Resource and Conservation Recovery Act hazardous waste program in Oregon. Oregon must periodically review and adopt new or amended federal rules to retain this delegated federal authority. DEQ last updated its rules in April 2015. In that rulemaking, DEQ incorporated by reference most federal rules enacted through June 30, 2014.

In this rulemaking, DEQ proposes to align its hazardous waste rules with the federal rules. DEQ will do this by incorporating some previously adopted but subsequently amended federal rules, and incorporating some federal rules that have not been previously adopted into Oregon rules. These changes will enable Oregon to ask EPA to continue authorizing Oregon to operate its RCRA hazardous waste program in lieu of EPA.

DEQ is convening the Hazardous Waste Rulemaking Advisory Committee to inform this rulemaking. Committee meetings will be held through April 2016 to review the rules under consideration and provide input. Once advisory committee meetings are complete, DEQ will begin the formal rulemaking process.

DEQ will seek public comment on the list of rules being considered for incorporation when it opens a formal public comment period later this summer. DEQ will consider all comments before preparing a final rule proposal package the Environmental Quality Commission will consider in late 2016 or early 2017.

Discussion summary

At the beginning of the meeting, DEQ staff explained the need for the advisory committee and gave a presentation about the proposed rules under consideration for the hazardous waste program. The discussion that followed each DEQ rule presentation is provided in four parts:

1. A focused discussion by committee members on the rule and its impacts,
 2. The committees' answers to the four fiscal impact questions derived from OAR 183.333,
 3. The committees' recommendation on the proposed rule, and
 4. DEQ's responses to comments or questions not addressed at the meeting.
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Lab Rule: [Academic Laboratories Generator Standards](#) & [Technical Corrections Rules](#)

Part 1: The following are the main highlights of the committee members' roundtable discussion and comments on the rule and its fiscal impacts.

- Committee members expressed some concern about possible lab misuse of the rule by opting-in and opting-out as needed for academic lab cleanouts and other benefits. In response, one member stated they thought the current rule did have the protective mechanisms in place without further need against that possibility. *DEQ responded that a lab will need to notify to use the opt-in benefits. If a lab was noted to have multiple opt-in/opt-outs over short period of time, the agency would follow up with lab.*
- Products of labs could be new, unknown chemical substances without Safety Data Sheet (SDS) to define the chemical properties making a hazardous waste determination difficult.
- Would a lab wanting to harmonize their Lab Management Plan with possible other plans (e.g., OSHA, etc.), be acceptable? *DEQ: Yes, if all the required elements were included as the rule specifies.*
- High schools are not eligible and remain subject to the hazardous waste regulations.
- Noted: Part 2 of the lab management plan (Best Management Practices) seems to have the guts of the plan and is identified as not enforceable under this rule.
- Rule moves hazardous waste determination accountability away from untrained students to paid trained professionals.
- At what level should the Lab Management Plan be written? Another committee member answered: at the high level to ensure safe management. *DEQ agrees.*
- Labs may use rule benefit of annual cleanout as a mechanism to not do timely hazardous waste determination and accumulate. A committee member responded that EPA believes the rule incentivizes clean out due to volume of

chemicals by facilitating a process that will not cause the labs to jump hazardous waste generator category. *DEQ: agrees.*

- One member in talking with peer institutions, stated many labs may choose not to opt-in primarily due to the two-tier management system (labs vs all other hazardous waste management on-site at maintenance shop, etc.) administrative burden and confusion (for training and management standards). And secondarily due to the requirement of a six month unwanted material rotation as some labs do make a lot of wastes.
- Will there be a boiler plate lab plan? *DEQ: EPA developed a Lab Management Plan Brainstorming Worksheet for labs to use as a template for guidance.*

Part 2: Fiscal questions- Lab Rule

At the end of each rule presentation, the committee discussed DEQ's four fiscal impact questions OAR 183.333 requires. The committee's answers are summarized below:

a. Will the rule have a fiscal impact?

No. Adopting the rule with amendments has no fiscal impact on the regulated community, since the rule is optional and allows eligible labs a choice to opt-in or not.

- Committee members agreed there would be an overall benefit by offering additional flexibility and an alternate standard in managing wastes at eligible labs.
- Yes, the rule will affect DEQ.

b. If so, what is the extent of the fiscal impact?

As the rule is optional, eligible labs choosing to opt-in will want to determine their own cost/benefit analysis as each facility will differ in size, staff and complexity of research conducted. The committee had the following considerations:

- Small academic institutions and satellite facilities would have a positive impact for satellite accumulation time and ability to consolidate wastes. Large academic institutions would possibly not benefit as much.
- The possible negative impacts (cost of training, and administrative burden) could outweigh the benefits of accumulation time length and operational flexibility.
- The adoption of the rule would have some fiscal impact to DEQ (administrative, training, etc.).

c. Will the rule have a significant adverse impact on small businesses (<50 employees)?

No, the rule is optional.

d. If so, how can DEQ reduce the economic impact of the rule on small businesses?

Not applicable to this rule.

Part 3: Committee recommendation for the Lab Rule:

Adopt Lab rule with amendments.

The committee supports adopting the Lab rule as it gives eligible academic laboratories increased flexibility to manage their lab wastes under an alternate and equivalent standard.

Part 4: Following are DEQ's responses to comments or questions not addressed at the meeting:

- **If we knew more about why academic facilities are not opting-in in those states that adopted and authorized this rule, it might give us more feedback if a due to a fiscal reason or the complexity of managing both generator statuses.** *DEQ has checked with a limited number of labs, and found dual regulations a challenge. DEQ will check further and report back.*
- **Check with other states who adopted the rule to see lessons learned, if it worked out, etc.** *DEQ checking and will report back.*

Wipes Rule: [Conditional Exclusions from Solid Waste and Hazardous Waste for Solvent-Contaminated Wipes Rule](#)

Part 1: The following are the main highlights of the committee members' roundtable discussion and comments on the rule and its fiscal impacts.

The wipes rule is an optional two-part rule: with a disposable side and a reusable side. Each part can be adopted or not adopted independent of each other. DEQ is not required to adopt.

At the beginning of the discussion, DEQ pointed out EPA interprets this rule as a controlling exclusion. If adopted and you qualify for this exclusion, you must use this rule or choose to manage the waste as a hazardous waste. Therefore, if you qualify for this exclusion you cannot use any other exclusion in lieu of this rule.

DEQ also pointed out the rule requires the agency to remove any current unenforceable reusable rag/wipe policy. DEQ's 1996 *Rags Destined for Laundering policy* is broader than the wipes rule as it allows other solvents and metal on rags to be laundered for reuse. Solvent-contaminated wipes not specifically addressed in the reuse portion of the Wipes rule will have to go to a hazardous waste landfill instead. Note: DEQ recognizes the current rag policy will need to follow the formal rule repeal process to include a public comment period and formal submission to the Environmental Quality Commission for approval.

In the absence of the current DEQ laundering policy and if the rule is not adopted, all wipes would be subject to a hazardous waste determination. If determined hazardous, the wipes must be managed according to the hazardous waste regulations.

Much discussion revolved around DEQ's laundering policy and the reuse portion of this rule:

- A committee member pointed out the importance of the wipes reuse rule and current DEQ laundering policy is to the regulated community.
- DEQ must deal with current policy? *DEQ: Yes, the policy is less stringent than the federal wipes rule by allowing additional solvents, metal contaminates, and is not enforceable.*
- Can Oregon have a policy that expands the reuse portion of this rule? *DEQ: No, EPA does not allow authorized states to be less stringent than federal regulations. By expanding the rule's exclusion to include other solvents, EPA would consider the state less stringent.*
- Colorado has a similar state reuse policy. Has that state, by choosing to not adopt this rule, subjected small regulated businesses that are not Conditionally Exempt Generators to more stringent regulations by requiring wipes to be managed as hazardous wastes? *DEQ: Yes, since the state did not adopt rule and EPA no longer allows their policy.*
- What if the wipes have other solvents present? *DEQ: the Wipe rule is very clear, if other contaminates are present (e.g., other solvents, metals, etc.) the wipe is not excluded.*
- Can a business combine mixed wastes, for example solvent contaminated wipes, with used oil wipes? *DEQ: Yes, EPA allows combining and managing as solvent-contaminated wipes.*
- Can businesses combine wipe containers at workbench with other wipe containers? *DEQ: Yes according to EPA, wipes can be accumulated for a total 180-days in small workbench container which can be combined with central accumulation for pickup. Businesses are to mark the container with the date, and that date is be transferred to the larger central accumulation container all within the 180-day clock.*

Further discussion revolved around the disposable side of this rule:

DEQ pointed out EPA's Wipe rule risk assessment is for cleanup rather than all risk assessments. EPA used an acceptable risk standard of 10^{-5} or one in 100,000. DEQ's acceptable cleanup risk standard is 10^{-6} , or one in one million. EPA based the final rule's risk assessment on lined landfills and not all Oregon's landfills are lined.

- What risk base did EPA use for unlined landfills? *DEQ: EPA's 2003 Wipes proposed rule included a risk-based analysis for unlined landfills where most everything failed.*
- EPA is not consistent with their risk assessment standards (e.g., drinking water standards, cleanup standards, etc.). A committee member encourages the state to not adopt inconsistent standards, but maintain standard consistency.
- As currently written, does the disposable part of the final rule say only at lined landfills? *DEQ: No, the final wipes rule states solvent-contaminated wipes can be disposed of in municipal solid waste landfills which could include unlined landfills.*
- There is a current lack of infrastructure to manage the disposable waste stream (e.g., 55 gallon drum pick-up service, safe transportation, landfill management, bulldozer running over containers, potential fire, etc.). Can a subtitle D landfill be

prepared to accept material and remain protective of the environment with sufficient controls given the environmental risks (e.g., ignitable, fire, groundwater contamination, etc.) with infrastructure less stringent than a TSD facility? *DEQ: Yes, there are issues on how the landfills will manage this waste stream and be protective of their workers and the environment. DEQ could amend rule to specify which landfills these wastes could go to and require a special waste permit for solvent rags. It would be up to the landfills to determine if they wanted to accept this waste and meet the required permit conditions to manage it.*

- Can the state craft a solution that meets EPA requirements, and incentivizes or encourages laundering and discourages disposal of wipes? *DEQ: Possibly. EPA's fiscal analysis was unclear in showing increased costs for disposal (solid waste disposal is less expensive than hazardous waste disposal) and showed no cost savings for laundering due to this rule. DEQ has found laundering can have economic savings. To help encourage recycling or laundering DEQ could adopt the reuse portion of rule.*
- Did EPA do a risk assessment on laundering wipes? *DEQ: Yes, EPA considers the environmental impact of laundering is equal to the environmental impact for disposal. Laundering solvent contaminated wipes emits air pollutants and waste water effluents subject to the clean air and clean water acts.*
- What about transporting wipes across the state border? *DEQ: Oregon has two-way reciprocity agreements with its neighboring states. So if something is considered a hazardous waste in California and transported to Oregon, it will need to be managed by California standards for disposal in Oregon. However, if Oregon does not adopt the rule and another state's excluded solvent-contaminated wipes are sent to Oregon on a bill of lading (as a hazardous waste manifest is not required) it would be hard to identify these wastes to ensure proper disposal management.*
ORS 459.055(8)

Part 2: Fiscal questions - Wipe Rule

At the end of each rule presentation, the committee discussed DEQ's four fiscal impact OAR 183.333 requires. The committee's answers are summarized below:

a. Will the rule have a fiscal impact?

Reuse Adoption: Yes, some negative impact by adopting the reuse portion of the rule to replace DEQ's laundering policy. Since some wipes formally excluded by DEQ Rag policy will now have to be managed as hazardous waste wipes as the rule applies only to specific solvent-contaminated wipes.

No Adoption: Yes, negative fiscal impact. If this rule is not adopted and DEQ's laundering policy is removed, everything formally excluded by policy becomes a hazardous waste, increasing disposal costs.

Disposal Adoption: No negative fiscal impact if the disposal portion of the rule is adopted. Regulated businesses currently generating solvent-contaminated wipes that meet exclusion would see a reduction in disposal costs.

b. If so, what is the extent of the fiscal impact?

In general, businesses would have an increase in costs for training, new labelling, container management, and time limits, as the wipes rule is more stringent than DEQ's Rag policy.

Adopting the rule would have some fiscal impact to DEQ (administrative, training, etc.).

The committee had the following considerations:

Reuse Adoption

- Laundered solvent-contaminated wipes not specifically addressed in the Wipes rule will have to be managed as hazardous waste, increasing disposal costs. *DEQ does not have the number of affected businesses, as a number of them are not regulated by DEQ.*
- Removal of the policy makes it a greater impact, as rule is not as broad.
- DEQ will yield great disposal fees as laundering would no longer be allowed [on other solvent-contaminated wipes not included in the rule].

Disposal Adoption

- Businesses would potentially have significant savings for disposal costs.

c. Will the rule have a significant adverse impact on small businesses (<50 employees)?

No significant adverse impact for most small businesses. Most small businesses are not regulated by DEQ and can already dispose of their wipes at municipal solid waste landfills.

Reuse Adoption

- Small businesses formerly using DEQ Rag policy with adoption of the reuse wipes rule, would have a nominal impact: labeling, training, closed containers.
- Small businesses formerly using DEQ Rag policy with adoption of the disposable wipes rule, would have a fairly large positive impact assuming landfills take them.

Disposal Adoption

- Businesses would potentially have significant savings for disposal costs.

d. If so, how can DEQ reduce the economic impact of the rule on small businesses?

Not applicable to this rule.

Part 3: Committee recommendation for the Wipe Rule:

Reuse portion of Wipes Rule: Adopt the reuse portion of the Wipes rule.

The committee supports the adoption as the rule is stronger for requiring no free liquids, minimizes pollution, decreases mismanagement of wipes, and encourages recycling. The committee had the following comments:

- Should adopt reuse, so people are more inclined to launder their wipes
- Strong economic incentive to right recycler
- Reuse is good for both state and the regulated community, minimizes pollution and mismanagement of solvent wipes

Disposable portion of Wipes Rule: Insufficient supportive information to determine adoption decision (e.g., inconsistency on EPA's risk assessment standards with Oregon's impact for unlined landfills).

Considerations included: possibly amending DEQ rules to specify which landfills wipes could go to and develop a special wipes waste permit with environmental controls.

The committee had the following comments:

- Hard time adopting portion of rule based on risk assessment standards inconsistent with state standards (e.g., 1:100,000 vs 1:1 million)
- There are questions about EPA's analysis and if EPA inputs were conservative for landfilling
- Don't agree with wipes going to unlined landfill as there is a risk not evaluated and EPA said unlined landfills failed
- Based on EPA's risk assessment, EPA concluded no unacceptable risk at lined landfills with the exception of TCE-contaminated wipes
- Need more data as it relates to unlined landfills, yes, data is not sufficient to consider to adopt rule. But what about lined landfills and working with solid waste [permitting]?
- Would hate to see the disposal part of the rule dropped as it is difficult, as some wipes need disposal
- Don't want to see rule inspire people to stop treating or reusing and encourage disposal

Part 4: Following are DEQ's responses to comments or questions not addressed at the meeting:

- **Can DEQ continue to regulate policy through a rulemaking (e.g., to allow other solvents, metals)?** *DEQ: DOJ is checking, but our policy is likely not acceptable. Most states believe, like Florida, Washington and others, that the rule wording: pursuant to 40 CFR 261.10, solvent-contaminated wipes that contain listed hazardous waste other than solvents, or exhibit the characteristic of toxicity, corrosivity, or reactivity due to contaminants other than solvents," are not eligible for the exclusions at 40 CFR 261.4(a)(26) and 40 CFR 261.4(b)(18). Wipes and shop towels determined to be hazardous waste must be managed according to the applicable regulations in 40 CFR 260 through 273.*
- **Can we check with landfill owners to see if they are interested in managing disposable wipes, and give input on how they would manage the wipes safely?** *DEQ: We will check with landfill owners and discuss with Solid Waste managers for assessing safety in landfills. Some state provisions for generators sending disposable solvent-contaminated wipes to a licensed or permitted solid waste landfill are not allowed to mix the wipes with regular solid waste (e.g., toss them into a solid waste dumpster). EPA's intent was to make it simple for generators to dispose of wipes, in a separate container from other trash, through their regular trash service.*
***Kansas:** Much of the municipal solid waste (MSW) in Kansas goes to landfills that do not have composite liners and therefore do not meet the requirements of 40 CFR 258.40. This type of landfill is called a Small Arid Landfill (SAL). Wipes going to one of these SALs would not meet the conditional exclusions and therefore would become subject to all solid and hazardous waste regulations. Therefore it is imperative that generators wishing to meet the conditional exclusions make sure that their MSW is being taken to a landfill with a composite liner.*
***Iowa:** Allows disposal only in landfill that have special authorization*

Florida: *Must be contained in a clear, 6-MIL or thicker sealed plastic bag, labeled with the words “Excluded Solvent-Contaminated Wipes” and the bag may not contain any free liquids. A facility using a commercial hauler should contact its waste hauler for any transportation restrictions.*

California, Delaware, Hawaii, Minnesota, Rhode Island, Colorado, Washington *have decided not to allow disposal. There may be other states also.*

- **See if 2015 Definition of Solid Waste rule would address recycling any of the wipes.** *DEQ: DOJ is reviewing.*
- **Can we label wipes with other words and still meet the federal regulations?** *(Since 1996 businesses are used to specific wording requirements under DEQ’s Rag policy, and the Wipes rule changes the wording and if not exact would lose the exclusion entirely.) DEQ is checking with EPA on equivalent wording and equivalent stringency. Indiana adopted the rule (July 3, 2015) with the following modifications: Containers must be labeled Excluded Solvent-Contaminated Wipes as in the Federal Rule, “or with other words indicating the contents of the container.”*

Coal Rule: [Disposal of Coal Combustion Residues from Electric Utilities Rule](#)

Part 1: The following are the main highlights of the committee members’ roundtable discussion on the rule and its fiscal impacts.

- How is coal ash managed now without the rule at Oregon’s one facility? *DEQ: As the site was permitted before the Solid Waste program was authorized, the facility is managed under a water quality permit with protective environmental measures similar to what a solid waste permit would include. The facility has no objection to this rule’s adoption.*
- Why is the facility closing? *DEQ: Due to the new air quality rules, the facility will be required to retrofit to meet the new standards for carbon dioxide, nitrous oxide and other particulate pollution controls at enormous expense. The facility chose to shut down and build a natural gas power plant to replace it.*
- Would adopting this rule change the facility’s management of wastes? *DEQ: No, there will be no impact and no change to the facility as it is scheduled to close within four years.*
- Why not close now instead of waiting four years? *DEQ: the facility is being built as a natural gas power plant to replace the coal-fired one, and is set to be completed in four years. The timing also coincides with when this rule’s requirement goes into effect.*

Part 2: Fiscal questions- Coal Rule

At the end of each rule presentation, the committee discussed DEQ’s four fiscal impact questions OAR 183.333 requires. The committee’s answers are summarized below:

a. Will the rule have a fiscal impact?

No, this rule adoption will create no fiscal impact on the regulated community.

- The one coal-fired power plant the rule affects is choosing to close not due to this rule.

b. If so, what is the extent of the fiscal impact?

None

c. Will the rule have a significant adverse impact on small businesses (<50 employees)?

No.

d. If so, how can DEQ reduce the economic impact of the rule on small businesses?

Not applicable to this rule.

Part 3: Committee recommendation for the Coal Rule:

Adopt Coal rule.

The committee supports adopting the Coal rule as it will affect only one business that is schedule to close. [Any new coal-fired power plant would have to meet the new air quality and hazardous waste regulations in Oregon.]

Part 4: The committee had no additional questions for DEQ to address outside the meeting.

Fuel Rules: [Vacatur of the Comparable Fuels Rule and the Gasification Rule](#) & [Withdrawal of Emission-Comparable Fuel Exclusion under RCRA Rule](#)

Part 1: The committee had one comment for the roundtable discussion of this rule.

- Are there any current regulated facilities affected by this rule? *DEQ: No, there are currently no petroleum refineries operating in Oregon and the rule has never been used since its State adoption in 1999.*

Part 2: Fiscal questions on the Withdrawal of Comparable Fuel rule.

At the end of each rule presentation, the committee discussed DEQ's four fiscal impact questions OAR 183.333 requires. The committee's answers are summarized below:

a. Will the rule have a fiscal impact?

No. Committee members agreed there are no fiscal impacts since there are no petroleum refineries operating in Oregon.

b. If so, what is the extent of the fiscal impact?

Not applicable.

c. Will the rule have a significant adverse impact on small businesses (<50 employees)?

No.

d. If so, how can DEQ reduce the economic impact of the rule on small businesses?

Not applicable to this rule.

Part 3: Committee recommendation for the Withdrawal of rule:

Adopt the withdrawal.

The committee supports adopting the withdrawal, since it is a mandatory adoption for all authorized states that adopted the 1998 Comparable Fuels Rule.

Part 4: The committee had no additional questions for DEQ to address outside the meeting.

CO2 Rule: [Conditional Exclusion for Carbon Dioxide \(CO2\) Streams in Geologic Sequestration Activities](#)

Part 1: The following are the main highlights of the committee members' roundtable discussion on the rule and its fiscal impacts.

- Not yet a proven technology. We will need to address greenhouse gases and geologic sequestration at some point.
- Oregon law does not allow class 6 wells regardless of what goes in, so we have mischaracterized the statement "Oregon law prohibits disposal of hazardous waste via underground injection control well." *DEQ: Oregon rule currently does not allow class six underground injection control wells or the injecting hazardous wastes into the ground.*
- Where is this waste going now? *DEQ: Regulated under the Clean Air Act or as hazardous waste.*
- At some point in the future technology will be available to address the environment concerns.
- Did EPA demonstrate the environmental impacts? *DEQ: We did not look as we could not get past current Oregon law that prohibits this activity.*
- We would be short-sighted if we did not consider the long term. *DEQ: If a business wanted to apply for a class 6 UIC permit, then DEQ would address the rule prohibition.*

Part 2: Fiscal questions on the CO2 rule

At the end of each rule presentation, the committee discussed DEQ's four fiscal impact questions OAR 183.333 requires. The committee's answers are summarized below:

a. Will the rule have a fiscal impact?

No. Oregon law currently prohibits adopting this rule by not allowing class six underground injection control wells or the injecting hazardous waste.

b. If so, what is the extent of the fiscal impact?

Not applicable.

c. Will the rule have a significant adverse impact on small businesses (<50 employees)?

No.

d. If so, how can DEQ reduce the economic impact of the rule on small businesses?

Not applicable to this rule.

Part 3: Committee recommendation for the CO2 rule:

Postpone adopt of this rule.

- Suggests DEQ include an explanation why rule is not being adopted (state law) and add question about whether sequestration should be considered for the state.

Part 4: The committee had no additional questions for DEQ to address outside the meeting.

Post Closure Rule: [Post-Closure Permit Requirement and Closure Process Rule](#)

Part 1: The following are the main highlights of the committee members' roundtable discussion on the rule and its fiscal impacts.

Much discussion focused on whether this rule addressed the hazardous waste "shell" permit. The agency uses "Shell" permits the agency to refer land disposal facilities and facilities that cannot "clean close" (e.g., decontaminate all equipment, structures, and soils) to the cleanup program for remediation. The "Shell" permit basically says follow the corrective action order or record of decision as managed under the agency's Cleanup program, thus creating two reporting structures. This rule allows alternate authorities under the Cleanup program to be used in place of a hazardous waste permit.

DEQ shared they have had years of discussions with EPA on the ability to apply this rule to the agency's current shell permits. EPA continues to stand firm in stating this rule only applies to new (never permitted sites) and interim permitted sites (facilities with a pending permit application).

Since its federal adoption in 1998, DEQ has considered the potential use of this rule multiple times. Oregon determined multiple times to not adopt the main portion of this rule because it would not apply to the current "shell" permitted facilities.

The committee had the following discussion:

- If there are facilities that can use the rule without a RCRA permit then adopting the rule makes good sense. *DEQ: We believe we have found all the cleanup sites in Oregon that could use this rule. The last new hazardous waste permit application we received was in the late 1980's. The likelihood of a new permit is less than 1%.*
- Does DEQ agree with EPA? *DEQ: We would like it to apply to permits that serve no purpose. The Cleanup program would be agreeable if it removed shell permits.*
- How many facilities would this rule affect if partially adopted? *DEQ: one and those currently in shell permits (4). The reduced permit application requirements would be used when a shell permit was renewed if adopted.*
- Urge Department not to make a choice to not adopt without options for RCRA shell permits.
- Would this rule facilitate a shell permit to corrective action? *DEQ: We would like it to but EPA so far has not allowed it. We agree most of the shell permits serve no value. The shell permits are just extra expense and administrative effort on these people trying to clean-up their problems. The shell permits do not make it easier or cheaper or help the environment.*

- Shell permits subject the State to administrative burden, and additional cost and liability to sites.
- Not apply to shell permits and DEQ went through the whole process.

Part 2: Fiscal questions on the Post Closure rule.

At the end of each rule presentation, the committee discussed DEQ's four fiscal impact questions OAR 183.333 requires. The committee's answers are summarized below:

The committee postponed answering these questions pending additional time to discuss.

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

Part 3: Committee recommendation for the Post Closure rule:

The committee supported tabling further discussion pending further DEQ review on the applicability of the rule address shell permits.

Part 4: The committee had the following question for DEQ to address outside the meeting.

- Check with DOJ if the rule applies to existing "shell" sites. *DEQ: After discussion with DOJ the rule does not apply to our current shell permits.*

NPDES Rule: [Amendments to Streamline the National Pollutant Discharge Elimination System Program Regulations: Round Two](#)

DEQ shared the rule is an EPA-only administrative rule and is not applicable to states. The rule streamlines a former three-part procedure into a two-part procedure for terminating a RCRA permit. EPA highly encourages states to be equivalent with the federal regulations for consistency.

Part 1: The following are the main highlights of the committee members' roundtable discussion on the rule and its fiscal impacts.

- Why does EPA care if states adopt this rule since it is for EPA-only? *DEQ: EPA is stream-lining and correcting their typos. With state adoption EPA can cite the state regulations, and it would be equivalent to the federal regulations.*
- Would a facility care? *DEQ: No, only if EPA over-filed on our NPDES program and took over for the state. Many rules like this apply only if for some reason our state program breaks down.*
- What is driving the Department's recommendation to adopt? *DEQ: To align with EPA across the states. It makes EPA's life easier and has no impact on state.*
- So we do it now differently? *DEQ: No, what we do now aligns with what EPA is trying to do. EPA believes they could still do this, this just aligns our program with EPA's.*

- This is an EPA rule, and the state is adopting the rule for EPA use only? *DEQ: Yes, adopting so EPA can carry on in our state. CFR 124 is the EPA level permitting where these changes are being made. DEQ has adopted in the past the key pieces on public comment and public hearing for use in Oregon. This rule is very similar.*

Part 2: Fiscal questions on the NPDES rule.

At the end of each rule presentation, the committee discussed DEQ's four fiscal impact questions OAR 183.333 requires. The committee's answers are summarized below:

The committee postponed answering these questions pending additional time to discuss.

- 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?**

Part 3: Committee recommendation for the NPDES rule:

The committee supported tabling for further discussion, as meeting time came to a close.

Part 4: The committee had no additional questions for DEQ to address outside the meeting.

DEQ asked the advisory committee to help identify other stakeholders interested in our proposed rules. DEQ wants to make sure to not miss a key stakeholder when we send out our public notice.

DEQ thanked the committee for participating and commenting on the proposed rules and fiscal impacts. Meeting was adjourned.

Summary of Committee's Recommendations

Lab: The committee supports adopting the Lab rule as it gives eligible academic laboratories increased flexibility to manage their lab wastes under an alternate and equivalent standard.

Committee recommended rule adoption with amendment to require submitting lab management plan when notifying DEQ of opting in.

Fiscal impacts: Committee determined no negative fiscal impacts for adopting rule.

Wipes: Committee recommended adopting the reuse portion of the optional rule and postponing a recommendation for the disposal portion of the rule.

Fiscal impacts: Committee determined some negative impacts for the reuse portion of the rule due to additional training, labelling, container management, time limits, and removal of the long-standing DEQ Rag policy. Committee also determined positive fiscal impacts for the disposal portion of the rule and no significant adverse impacts for small businesses.

Coal: Committee recommended adopting the optional rule.

Fiscal impacts determined none.

Fuel (2): Committee recommended adopting the mandatory rule.

Fiscal impacts determined none.

CO2: Committee recommended not adopting this optional rule at this time.

Fiscal impacts determined none.

Post-Closure: Committee tabled for additional information to be presented at next meeting. Fiscal questions postponed.

NPDES: Committee tabled for further discussion, as meeting time came to a close.

Fiscal questions postponed.