



State of Oregon Department of Environmental Quality

Draft Fiscal Impact Statement

Hazardous Waste 2022 Rulemaking:
Follow-up to Statutory Fee Changes

Introduction

This is a draft fiscal impact statement developed by the Oregon Department of Environmental Quality for the 2022 Hazardous Waste Rulemaking. This document is being presented to the Rules Advisory Committee for their input before being finalized for inclusion in the public notice.

Fee analysis

The proposed rule would establish existing statutory fees in rule. ORS 465.376 was amended by [SB57](#) on June 25, 2021. The purpose of this bill was to modernize and streamline one statute, ORS 465.376, which governs disposal fees, also called “tipping” fees, for wastes disposed of in Oregon’s only commercially permitted RCRA Subtitle C Hazardous Waste Landfill, Chemical Waste Management of the Northwest, located in Arlington, OR. With the passage of SB57, Oregon Legislature granted authority to the Environmental Quality Commission, or EQC, to raise or lower fee rates defined in [ORS 465.375](#): Monthly fee of operators and [ORS 465.376](#): Special hazardous waste management fees. OAR 340 currently does not have a definition for these fees.

Brief description of proposed fees

Below is a summary of the statutory changes made to ORS 465.376 via SB57. All of these changes were effective as of Jan. 1, 2022. No further changes are proposed by this rulemaking, rather, these fees and EQC authority will be defined in rule.

Removed

- Subsection (1)(a): “\$7.50 per ton for waste from the primary production of steel in electric furnaces that is emission control dust or emission control sludge identified as United States Environmental Protection Agency hazardous waste number K061 in 40 C.F.R. 261.32.”
- The fee tiers under subsection (1)(b).
- Subsection (1)(c): “\$15 per ton for waste that is hazardous waste when received and treated at the facility so that the waste is no longer a solid waste as defined in ORS 459.005.”
- The “one-third/two-thirds” split in revenue defined in subsections (3) and (4).
- Subsection (5)(b): “Hazardous debris” is removed from the definition of “waste”.

Modifications

- The tiered fees defined in subsection (1)(b) were converted to a flat fee of \$20 per ton.
- The fee defined in subsection (1)(d): \$2 per ton was increased to \$5 per ton.

Additions

- Ability for EQC by rule to raise or lower fee rates defined in ORS 465.375: Monthly fee of operators and ORS 465.376: Special hazardous waste management fees.

Reasons

The proposed rules would address statutory changes by aligning Chapter 340 of Oregon Administrative Rules with ORS 465.376. Via SB57, DEQ Hazardous Waste Program modernized and streamlined hazardous waste disposal fees, also called “tip fees” or “tipping fees.”

DEQ collapsed the tiered fees portion of ORS 465.376 and set this fee at a flat rate of \$20 per ton. Prior to this change, only the top tier, which was set at \$20 per ton, was generating revenue. The tiered fee structure created additional administrative work in tracking multiple fees instead of just one.

DEQ raised the fee for disposal of waste that does not require treatment prior to disposal from \$2 per ton to \$5 per ton. The new rate matches that of Idaho, our nearest neighboring state with a hazardous waste landfill. DEQ looked at other nearby states’ fees as well.

These fees have not increased since establishment, and include outdated waste streams, such as “waste from the primary production of steel in electric furnaces.” DEQ has modernized the statute by removing outdated waste streams and their associated fees.

Due to the uncertainty surrounding disposal of waste at Chemical Waste Management, such as unknown rates of disposal and potential regulatory changes, DEQ needs to respond relatively quickly if under or overcharging for disposal of hazardous waste. To accomplish this, DEQ now has the flexibility of having fees set in rule rather than in statute.

Fee proposal alternatives considered

This rulemaking would establish statutory changes in rule. The alternative – not pursuing this rulemaking – would leave a discrepancy between statute and rule.

Fee payer

These fees are paid by anyone who chooses to dispose of any of the wastes defined in [ORS 465.375](#): Monthly fee of operators and [ORS 465.376](#): Special hazardous waste management fees. Because Chemical Waste Management, or CWM, of the Northwest is Oregon’s only commercially permitted RCRA Subtitle C Hazardous Waste Landfill, CWM collects these fees on DEQ’s behalf and submits payments to DEQ monthly. The majority of hazardous waste disposed of at CWM does not originate in Oregon, which means the financial burden related to these fee increases is not placed solely on Oregonians.

Affected party involvement in fee-setting process

DEQ Hazardous Waste Program worked directly with Chemical Waste Management in the creation of SB57.

Statement of fiscal and economic impact

Impacts were determined and summarized by legislative staff prior to passage of SB57. Reports can be found [here](#).

- Revenue impacts: None
- Fiscal impacts: Costs related to the measure may require budgetary action.

Statement of Cost of Compliance

State agencies

DEQ does not anticipate any fiscal impact as a result of this rulemaking because this rulemaking would establish existing statutory fees in rule.

Local governments

DEQ does not anticipate any fiscal impact to local governments as a result of this rulemaking because this rulemaking would establish existing statutory fees in rule.

Public

DEQ does not anticipate any fiscal impact to the public as a result of this rulemaking because this rulemaking would establish existing statutory fees in rule. These fees apply only to entities, not individuals or households, which choose to dispose of any of the wastes defined in ORS 465.375: Monthly fee of operators and ORS 465.376: Special hazardous waste management fees in Oregon's only commercially permitted RCRA Subtitle C Hazardous Waste Landfill.

Large businesses - businesses with more than 50 employees

DEQ does not anticipate any additional fiscal impact to large businesses as a result of this rulemaking because this rulemaking would establish existing statutory fees in rule.

Small businesses – businesses with 50 or fewer employees

DEQ does not anticipate any additional fiscal impact to small businesses as a result of this rulemaking because this rulemaking would establish existing statutory fees in rule.

ORS 183.336 Cost of Compliance Effect on Small Businesses

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

DEQ does not anticipate any additional fiscal impact to small businesses as a result of this rulemaking because this rulemaking would establish existing statutory fees in rule. Further, it is not feasible to determine the number and type of small business that might pay these fees because these fees are paid by those entities that choose to dispose of any of the wastes defined in ORS 465.375: Monthly fee of operators and ORS 465.376: Special hazardous waste management fees in Oregon's only commercially permitted RCRA Subtitle C Hazardous Waste Landfill. These entities need not be located in Oregon.

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

The proposed rules do not require any additional activities. These fees are already active.

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

The proposed rules do not require any additional activities. These fees are already active.

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

DEQ will include small business representatives on the 2022 Hazardous Waste Rules Advisory Committee that will advise DEQ on the cost of compliance for small businesses.

Advisory committee fiscal review

DEQ appointed an advisory committee.

As ORS 183.33 requires, DEQ will ask for the committee's recommendations on:

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

The committee will review the draft fiscal and economic impact statement and its findings will be stated in the approved minutes.

Housing cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel.

DEQ determined the proposed rule would have no effect on development costs because these fees are paid only by those entities that wish to dispose of any of the wastes defined in ORS 465.375: Monthly fee of operators and ORS 465.376: Special hazardous waste management fees in Oregon's only commercially permitted RCRA Subtitle C Hazardous Waste Landfill.

Racial equity

ORS 183.335(2)(a)(F) requires state agencies to provide a statement identifying how adoption of this rule will affect racial equity in this state.

Adoption of these rules will provide simplification and clarification of the fee structure. Entities wishing to dispose of these specific wastes will benefit from simplification and increased clarity. As there are no expected changes to practical implementation other than simplifying the fees disposers pay, there is no expected disproportionate impact on racial equity in Oregon.

Alternative formats

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

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