#### State of Oregon

Department of Environmental Quality Memorandum

**Date:** Dec. 19, 2018

**To:** Environmental Quality Commission

**From:** Richard Whitman, Director

**Subject:** Agenda item \_\_\_, Informational item: Hazardous Waste Fee Increase Rulemaking

Jan. 24, 2019, EQC meeting

|  |  |
| --- | --- |
| **Purpose of item** | DEQ is proposing to align its hazardous waste fees to keep pace with increasing program costs and decreasing revenue since fees last changed in 2007. 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 need 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; and * Deliver excellence in service.   DEQ remains committed to maintaining federal 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 program, as defined in ORS 466.086 and as applied in OAR 340-100-0002, to ensure businesses properly manage harmful wastes 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 (19 percent), and small cost recovery funds (2 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 fee increases would address the forecasted $1.2 to $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 ffects 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 factor fees; * Annual permitted TSD compliance determination fees; * TSD permit modification fees; and * TSD annual disposal administrative fees.   We conducted three advisory committee meetings and have considered the feedback and recommendations made by the committee.  And prepared a fiscal impact statement and incorporated it into the Public Notice.  We held a public comment period between Dec. 14 and Jan. 22, 2019. DEQ held a public hearing on Jan. 17, 2019 in Portland. Our responses to public feedback are included in the Staff Report.  We will evaluate feedback received during the public comment period and revise and finalize the proposed rules to present to the EQC in May 2019. |
| **EQC involvement** | DEQ will ask the commission’s approval to revise Division 102 and 105 for Hazardous Waste Generator Feesrules at the May 2019 EQC meeting. |

Report compiled by David Livengood

*Hazardous Waste Program manager*