



State of Oregon Department of Environmental Quality

# Oregon Environmental Quality Commission meeting

July 20, 2023

## Rulemaking, Action Item H Waste Tire 2022

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# DEQ Recommendation to EQC

DEQ recommends the Environmental Quality Commission adopt the proposed rules in Attachment A as part of Chapter 340 of the Oregon Administrative Rules.

## Language of Proposed EQC motion:

*“I move that the commission adopt the proposed rules as seen in Attachment A of this report as part of Chapter 340 of the Oregon Administrative Rules.”*

## Overview

DEQ proposes to update waste tire rules, currently in Oregon Administrative Rules Chapter 340, Division 64, [Waste Tire Program: Waste Tire Storage Site and Waste Tire Carrier Permits](#).

The Environmental Quality Commission established Division 64 in 1998 to support waste tire management. The rules were modified in 1992 to incorporate some changes to the waste tire carrier rules. Statutory changes made in the early 1990s and from [legislation in 2019](#) have made many of the waste tire rules in Division 64 obsolete, and DEQ is proposing they be repealed.

DEQ also wants to ensure permitting and enforcement standards are consistent with current Oregon fire code, which would eliminate potential confusion for permit holders.

Finally, this effort will align and consolidate the permitting standards for waste tire storage sites and waste tire carriers with similar requirements for other types of materials in OAR 340, Divisions 93, 96 and 97.

## Summary of Proposed Changes

DEQ is proposing moving rules from OAR 340, Division 64 to [OAR 340, Division 93, Solid Waste: General Provisions](#) to use existing solid waste permitting criteria and procedures for waste tire rules. Division 93 rules describe procedures for solid waste permit application, public notice, permit issuance, compliance and enforcement. Landfill disposal requirements for waste tires would also be incorporated within Division 93 under wastes requiring special management. Some duplicate rules will be eliminated as part of the move.

DEQ also proposes moving rules for waste tire storage sites and waste tire carriers from Division 64 to [Division 96, Solid Waste: Special Rules for Selected Solid Waste Disposal Sites](#), which describes solid waste permitting requirements.

DEQ’s proposal also includes moving Waste Tire Storage and Waste Tire Carrier Permits and annual compliance fees from Division 64 to [Division 97, Solid Waste: Permit Fees](#). The fees would include permit application and annual compliance fees for waste tire storage sites and waste tire carriers. DEQ is not proposing to increase fees but is proposing to eliminate waste tire carrier per vehicle fees.

DEQ’s proposal includes eliminating Beneficial Waste Tire Storage Permits and Combined Tire Carrier/Storage Permits. Upon adoption of these rules, active permits in operation would remain

in effect and enforceable until DEQ modifies them to the appropriate permit under the new rules. DEQ would modify active Beneficial Waste Tire Storage Permits and issue new Waste Tire Storage Permits. DEQ would also modify active Combined Tire Carrier/Storage Permits and issue separate Waste Tire Carrier and Waste Tire Storage Permits.

## **Proposed waste tire storage site requirements**

DEQ proposes to align and consolidate the waste tire storage site permitting requirements for waste tire storage sites with similar requirements in OAR 340, Divisions 93, 96 and 97. Waste Tire Storage Permits are required for persons storing more than 100 waste tires, except if exempted in rule. DEQ issues Waste Tire Storage Permits to ensure storage sites are designed and operated in a manner that is protective of the environment and public health. Waste Tire Storage Permit requirements are currently in [OAR 340-064-0015 through 0052](#).

The proposed waste tire rules would simplify and consolidate waste tire storage site requirements into Division 96, following the permitting framework and procedures used for all other solid waste facilities. DEQ is proposing to apply the same set of rules as all other solid waste facilities identified in Division 93 for Waste Tire Storage Permit applications, issuance, compliance, public notice and enforcement procedures. The proposed waste tire storage site rules would be in OAR 340-096-0210 through 0240.

### **Proposed changes include:**

- Eliminate two-stage permits found in Division 64. The proposed rules would identify only one type of Waste Tire Storage Permit. DEQ would modify and issue new permits under the new rules for active Waste Tire Storage Permits, at no additional cost.
  - Active permits would remain in effect and enforceable until DEQ is able to modify them and issue new permits.
- Eliminate Beneficial Waste Tire Storage Permits found in Division 64. DEQ would modify active permits and issue new Waste Tire Storage Permits under the new rules at no additional charge.
  - Active permits would remain in effect and enforceable until DEQ is able to modify them and issue new permits.
- Eliminate the Combined Tire Carrier/Storage Permit. For active permit holders, DEQ would issue separate Waste Tire Carrier and Waste Tire Storage permits under the new rules at no additional charge. Fees paid by persons possessing both permits would be reduced because the per vehicle fees for waste tire carriers are proposed to be eliminated.
  - Active permits would remain in effect and enforceable until DEQ is able to modify them and issue new permits.
- Consolidate permit application and compliance fees for storage sites into the existing fee tables for other types of solid waste fees, in Division 97.

## **Proposed waste tire carrier permit requirements**

DEQ proposes to align and consolidate the waste tire carrier permitting requirements into existing permitting requirements for other types of solid waste in OAR 340, Divisions 93, 96 and 97. DEQ issues Waste Tire Carrier Permits to ensure that waste tires generated in the State of Oregon are transported for disposal only by individuals and businesses authorized to transport

tires for disposal and only to facilities authorized by DEQ. Rules addressing waste tire carrier permitting are currently in [OAR 340-064-0055 through 0075](#).

The proposed waste tire carrier rules would simplify and consolidate waste tire carrier requirements into Division 96, following the permitting framework and procedures used for all other solid waste permits. DEQ is proposing to apply the same set of rules as all other solid waste facilities identified in Division 93 for Waste Tire Carrier Permit applications, issuance, compliance, public notice and enforcement procedures. The proposed Waste Tire Carrier Permit rules would be in OAR 340-096-0250 to 0280.

DEQ would modify active permits in operation and issue new permits under these rules, at no additional cost.

**Proposed changes would:**

- Require carrier permittees to identify all vehicles covered by the permit in their operational plans rather than having special decals for each vehicle.
- Eliminate vehicle decal requirements for waste tire carriers in favor of permittees carrying copies of their Waste Tire Carrier Permit in their vehicles.
- Eliminating the \$25 per vehicle application fee.
- Delete all references to types of vehicles or ownership of vehicles including common carrier, leased vehicles and private carrier. The proposal would also delete the definitions of common carrier and private carrier and eliminate per vehicle fees.
- Consolidate permit application and compliance fees for waste tire carriers with all other solid waste fees in Division 97. The \$25 per vehicle annual fees would be eliminated. As a result, the annual compliance fee would change from \$175 to \$200.

**Remove obsolete rules**

The following rules are proposed to be repealed as the supporting statute (ORS 459.700) and the waste tire fund was repealed in 2019, making them obsolete:

- 340-064-0090, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Policy on Use of Waste Tire Recycling Account Funds*
- 340-064-0100, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Reimbursement for Use of Waste Tires*
- 340-064-0110, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Uses of Waste Tires Eligible for Reimbursement*
- 340-064-0115, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Who May Apply for a Reimbursement*
- 340-064-0120, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Application for Reimbursement*
- 340-064-0130, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Basis of Reimbursement*
- 340-064-0135, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Processing and Approval of Applications*
- 340-064-0150, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Use of Waste Tire Site Cleanup Funds*

- 340-064-0155, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Criteria for Use of Funds to Clean Up Permitted Waste Tire Sites or Conclude Negotiated Settlements for Cleanups*
- 340-064-0160, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Procedure for Use of Cleanup Funds for a Permitted Waste Tire Storage Site*
- 340-064-0165, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Use of Cleanup Funds for Abatement by the Department*
- 340-064-0170, *Reimbursements to Users of Waste Tires and Cleanup Funds for Tire Storage Sites: Procedure for Use of Cleanup Funds by Negotiated Settlement*

# Statement of Need

Proposed Rule or Topic	Discussion
<b>Ensure rules are consistent with statute</b>	
What need would the proposed rule address?	DEQ needs to update waste tire rules to ensure they are consistent with the current statute.
How would the proposed rule address the need?	DEQ proposes to repeal rules that are no longer consistent with ORS 459.705 to 790.
How will DEQ know the rule addressed the need?	Rules that are not consistent with statute are no longer active.
<b>Ensure rules are consistent with Oregon fire code</b>	
What need would the proposed rule address?	DEQ needs to update waste tire rules to ensure they are consistent with the current Oregon fire code.
How would the proposed rule address the need?	DEQ proposes to update rules that are based on Oregon fire code to ensure they are current.
How will DEQ know the rule addressed the need?	Rules that are based on fire code, reference the most recent Oregon fire code.
<b>Ensure consistency with permitting requirements and procedures</b>	
What need would the proposed rule address?	DEQ needs to align and consolidate waste tire permitting requirements and procedures with similar, current DEQ solid waste permitting requirements and procedures.
How would the proposed rule address the need?	DEQ proposes to update and move relevant rules from OAR 340 Division 64 to the appropriate sections of OAR 340 Divisions 93, 96 and 97 to ensure consistency with similar solid waste permitting requirements and procedures.
How will DEQ know the rule addressed the need?	Permitting staff are able to use similar permitting requirements and procedures currently being used for other solid waste facilities with waste tire carriers and storage sites.

# Rules Affected, Authorities, Supporting Documents

## Lead division

Land Quality

## Program or activity

Materials Management Program

## Chapter 340 actions

Adopt and move				
096-0210 <sup>1</sup>	096-0220 <sup>2</sup>	096-0230 <sup>3</sup>	096-0240 <sup>4</sup>	096-0260 <sup>5</sup>
096-0270 <sup>6</sup>	096-0280 <sup>7</sup>	096-0290 <sup>8</sup>		
Amend/move				
093-0030 <sup>9</sup>	093-0040	093-0050	093-0070 <sup>10</sup>	093-0080
093-0105	093-0113	093-0140	093-0150	093-0190 <sup>11</sup>
Division 96	096-0001	097-0001	097-0110	097-0120 <sup>12</sup>
Repeal				
064-0005	064-0010*	064-0015	064-0018	064-0020*
064-0022*	064-0025*	064-0030	064-0035*	064-0040*
064-0045*	064-0050*	064-0052*	064-0055*	064-0063*
064-0070*	064-0075	064-0080*	064-0090	064-0100
064-0110	064-0115	064-0120	064-0130	064-0135
064-0150	064-0155	064-0160	064-0165	064-0170

\* Move portions of rules to Divisions 93, 96 or 97 (see above footnotes)

Statutory Authority - ORS				
468.020	468.065	459	459.045	459.775
459.780	459.785			

<sup>1</sup> Adopt and move content from 064-0005 and 064-0015

<sup>2</sup> Adopt and move content from 064-0022

<sup>3</sup> Adopt and move content from 064-0035

<sup>4</sup> Adopt and move content from 064-0025

<sup>5</sup> Adopt and move content from 064-0055

<sup>6</sup> Adopt and move content from 064-0025, 064-0063 and 064-0055

<sup>7</sup> Adopt and move content from 064-0070

<sup>8</sup> Adopt and move content from 064-0080

<sup>9</sup> Amend and move content from 064-0010

<sup>10</sup> Amend and move content from 064-0020, 064-0040 and 064-0045

<sup>11</sup> Amend and move content from 064-0052

<sup>12</sup> Amend and move content from 064-0020, 064-0025, 064-0055 and 064-0063

Statutes Implemented – ORS				
459.268	459.705	459.708	459.710	459.712
459.715	459.720	459.730	459.745	459.750
459.755	459.775	459.780		

## Legislation

Senate Bill 792 (2019)

## Documents relied on for rulemaking

Document title	Document location
List of permitted waste tire storage site, waste tire carriers, beneficial storage sites and combined storage site/carriers	DEQ Headquarters Office 700 NE Multnomah St. Suite 600 Portland, OR 97232



# Fee Analysis

DEQ proposes to eliminate or adjust several of the fees associated with waste tire management including with Waste Tire Storage and Waste Tire Carrier permits and eliminate several permit types that are no longer consistent with other DEQ solid waste permitting practices such as Combined Tire Carrier/Storage and Beneficial Waste Tire Storage permits. DEQ proposes a new fee structure for the remaining waste tire permit types that would either remain the same or provide a decrease in the amount of fees paid by most fee payers. DEQ's Environmental Quality Commission has authority to act on the proposed fees under Oregon Revised Statute 459.730 and 750.

## Brief description of proposed fees

The Waste Tire 2022 draft rules propose changes to the fees for Waste Tire Storage and Waste Tire Carriers permits. DEQ proposes to eliminate waste tire permit renewal fees, waste tire permit modification fees and fees for reinstating revoked waste tire permits. DEQ does not charge for these types of permit actions for other solid waste permitting programs.

### Waste Tire Storage Permit

Some of the fees for Waste Tire Storage Permits would be eliminated. Most of the fees would remain the same. Application and annual compliance fees and financial assurance would remain the same. Fees for permit renewal, permit modifications and permit reinstating are proposed to be eliminated to be consistent with current solid waste program procedures.

### Beneficial Waste Tire Storage Permit

The Beneficial Waste Tire Storage Permit is proposed to be eliminated to be consistent with current DEQ permitting practices. DEQ does not issue new Beneficial Waste Tire Storage Permits currently. DEQ would modify active permits and issue new Waste Tire Storage Permits under the new rules at no additional cost.

Two Beneficial Waste Tire Storage Permits would be issued Waste Tire Storage Permits. As a result, the annual compliance fee would increase.

### Waste Tire Carrier Permit

The Waste Tire Carrier Permit application fee would remain the same. The annual compliance fee would essentially be the same or reduced, depending on how many vehicles a carrier is using. For Waste Tire Carrier Permits using one vehicle, there is no net change in fees. For Waste Tire Carrier Permits using more than one vehicle, there would be a net decrease in fees. Other fee types would be eliminated to be consistent with other solid waste permitting program fees. These include fees for permit renewal, per vehicle fees, replacing carrier decals, permit modification, permit reinstatement, and large truck compliance.

### Combined Tire Carrier/Storage Permit

The Combined Tire Carrier/Storage Permit option is proposed to be eliminated for consistency with DEQ permitting practices. DEQ issues permits based on specific solid waste management activities and regardless of site co-location. DEQ would modify active

Combined Tire Carrier/Storage Permits and issue separate Waste Tire Carrier and Waste Tire Storage Permits under the new rules, resulting in a net annual increase. Permittees would still only fill out one application and indicate both types of permits and pay fees for each individually.

## **Reasons**

The proposed changes would streamline regulatory requirements of permitted waste tire storage sites and waste tire carriers and associated administration by DEQ. This would also align waste tire permitting with other types of solid waste permitting structures in OAR 340, Divisions 93, 96 and 97.

## **Fee proposal alternatives considered**

DEQ considered not changing the existing fee structure as an alternative.

## **Fee payer**

Fee payers include waste tire storage sites operators, beneficial waste tire storage sites and waste tire carriers.

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

DEQ convened a Rules Advisory Committee including appointees representing a variety of industries directly and indirectly affected by the proposed fee change. The committee met on May 31, 2022, to discuss the fee changes.

The committee was asked to provide comments to the following questions:

- Will the proposed rules have a fiscal impact?
- What is the extent of the impact?
- Will the proposed rules have a significant adverse impact on small businesses? If so, how can DEQ reduce the impact?
- How will adoption of this fee increase affect racial equity in the state?

## **Summary of impacts**

The impacts of the proposed waste tire rules vary by the type of permit.

### **Waste Tire Storage Permit**

Some of the Waste Tire Storage Permit fees would not change in the proposed rules. Some of the fees would be eliminated. The overall result is a net decreased impact.

### **Beneficial Waste Tire Storage Permit**

DEQ's proposal eliminates Beneficial Waste Tire Storage Permits. DEQ would issue Waste Tire Storage Permits, resulting in a net increased impact.

### **Waste Tire Carrier Permit**

Under the proposal, the amount paid in application fees and annual compliance fees for Waste Tire Carrier Permits would be the same or would decrease, depending on the number

of vehicles used. Some of the fees would be eliminated. Overall, there would be a neutral or reduced impact.

### **Combined Tire Carrier/Storage Permit**

The Combined Tire Carrier/Storage Permit would be eliminated. Permittees conducting both types of operations would need to apply for a Waste Tire Storage Permit and a Waste Tire Carrier Permit and pay fees separately, resulting in a net increased impact.

### **Fee payer agreement with fee proposal**

DEQ considered advisory committee input and comments received during the public comment periods in developing final rule revisions.

### **Links to supporting documents for proposed fees**

- [Proposed Approach to Waste Tire Rules](#)
- Oregon Administrative Rules Chapter 340, Division 64, Waste Tire Program: [Waste Tire Storage Site and Waste Tire Carrier Permits](#)
- [Oregon Revised Statutes 459](#), Sections 705 to 790

### **Program funding**

<b>2019-2021 Biennium Waste Tire Administration Fees</b>	
Previous waste tire permitting revenue	\$7,223
Total 19-21 waste tire permitting revenue	\$12,030
Total 19-21 waste tire permitting expenditures	\$16,383
Waste tire permitting costs covered by General Fund	\$0
Waste tire permitting fees last changed	1988

Currently, waste tire rules are administered by the same staff and in the same program that administers other solid waste permitting programs. Waste tire permit administration has been funded by revenue from waste tire permit and compliance fees or from previous waste tire program fees collected. Solid Waste Disposal Fees also partially fund solid waste permitting programs such as waste tire permitting. The Solid Waste Disposal Fee was increased in 2016 and 2019 to ensure all permit programs were adequately funded.

### **Proposed fee schedule**

DEQ proposes changes to the types and amounts of fees charged by permittees based on current practices for similar DEQ solid waste permitting programs. The proposal would eliminate several permit types, including Beneficial Waste Tire Storage Permits and Combined Tire Carrier/Storage Permits, and several fee types, include permit renewal fees.

The table below shows the current fees by type of permit or category, including current fees, proposed fees and overall changes. Negative numbers are shown in parenthesis.

**Waste Tire Storage Permit: Expected decrease**

Fees for Waste Tire Storage Permit application and annual compliance would not change.

DEQ is proposing eliminating several fees including:

- Permit renewal (\$125)
- Permit modification (\$25)
- Revoked permit reinstating (\$150)

The changes to the Waste Tire Storage Permit fees would result in a net decreased impact.

**Beneficial Waste Tire Storage Permit: Expected increase**

Currently, beneficial waste tire storage permittees pay a \$50 annual compliance fee. Under the proposed rules, Beneficial Waste Tire Storage Permits would be eliminated. DEQ would modify these permits and issue new Waste Tire Storage Permits under the new rules, at no additional cost. Under the proposal, these permittees would pay \$250 annual compliance fees for Waste Tire Storage Permits.

**Waste Tire Carrier Permit: Expected decrease, in most cases**

For Waste Tire Carrier Permits, the standard application fee and financial assurance requirements would not change. The per additional vehicle application for waste tire carriers would be eliminated, resulting in no change or a net decreased impact for waste tire carriers using more than one vehicle.

Current waste tire carrier permittees pay \$175 each year for compliance plus \$25 annual compliance per vehicle (including short-term leased vehicles) or a total of \$200 or more each year. Although the proposed annual compliance fee would increase to \$200, the per vehicle and short-term vehicle compliance fees would be eliminated. This would either result in no net change for waste tire carriers with one vehicle listed on the permit, or a reduced impact for those with more than one vehicle listed on the permit.

Additionally, several other fees would be eliminated and result in a net decrease in impact including:

- Permit renewal.
- Replacing decals.
- Modifying permits.
- Reinstating revoked permits.
- Annual compliance fees for large trucks.

**Combined Tire Carrier/Storage Permit: Impacts vary by number of vehicles used**

The Combined Tire Carrier/Storage Permit and all associated fees would be eliminated. DEQ would modify active permits and issue separate Waste Tire Carrier and Waste Tire Storage Permits under the new rules, at no additional cost. If a new permittee applies for both a Waste Tire Carrier Permit and a Waste Tire Storage Permit, the application fees

would increase by \$25 over the current Combined Tire Carrier/Storage Permit application. Annual compliance fees for a Waste Tire Carrier Permit and for a Waste Tire Storage Permit would increase by \$200. For operations using three or fewer vehicles, the impact would increase. For operations using four vehicles, the impact would be the same. For operations with more than four vehicles, the impact would decrease.

<b>Fee Changes</b>			
	<b>Current fees</b>	<b>Proposed fees</b>	<b>Net change</b>
<b>Waste Tire Storage Site Permit</b>			
Application	\$250	\$250	<i>No change</i>
Permit renewal	\$125	Eliminated	<i>\$(125)</i>
Annual compliance	\$250	\$250	<i>No change</i>
Financial assurance	Based on cost to cleanup	Based on cost to cleanup	<i>No change</i>
<b>Beneficial Waste Tire Storage Site Permit</b>			
Application	\$100	Eliminated	n/a
Permit renewal	\$50	Eliminated	n/a
Annual compliance	\$50	Eliminated	n/a
Financial assurance	Based on the cost to cleanup	Eliminated	n/a
<b>Waste Tire Carrier Permit</b>			
Application	\$25	\$25	<i>No change</i>
Annual compliance	\$175	\$200	<i>\$25</i>
Per vehicle compliance	\$25	Eliminated	<i>\$(25)</i>
Permit renewal	\$25	Eliminated	<i>\$(25)</i>
Financial assurance	\$5,000	\$5,000	<i>No change</i>
Per additional vehicle application	\$25	Eliminated	<i>\$(25)</i>
Annual compliance for short-term/leased vehicles	\$25	Eliminated	<i>\$(25)</i>

<b>Combined Tire Carrier/Storage Permit</b>			
Application	\$250	Eliminated	n/a
Annual compliance	\$250	Eliminated	n/a
Renewal	\$125	Eliminated	n/a
Per vehicle compliance	\$25	Eliminated	n/a
<b>Other</b>			
Replace WTC decal	\$10	Eliminated	<b>\$(10)</b>
WTC permit modification	\$15	Eliminated	<b>\$(15)</b>
Reinstate revoked WTC permit	\$100	Eliminated	<b>\$(100)</b>
Large truck WTC annual	\$375	Eliminated	<b>\$(375)</b>
WTSS permit modification	\$25	Eliminated	<b>\$(25)</b>
Reinstate revoked WTSS permit	\$150	Eliminated	<b>\$(150)</b>
Combo block passes	\$5	Eliminated	<b>\$(5)</b>

# Statement of Fiscal and Economic Impact

## Fiscal and Economic Impact

DEQ estimates there would be:

- Reduced fiscal and economic impact for three permitted waste tire storage sites.
- Increased fiscal and economic impact for two beneficial waste tire storage sites.
- Neutral or decreased fiscal and economic impact for the 10 waste tire carriers, depending on how many vehicles they use.
- Increased, neutral or decreased fiscal and economic impact for four permitted combined waste tire carrier/storage site operations, depending on how many vehicles they use.

## Statement of Cost of Compliance

### State agencies

State agencies would not be affected by changes to fees.

### Local governments

Local government would not be affected by changes to fees.

### Public

The public should not be directly affected by changes to fees.

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

DEQ is unable to quantify the impact for large businesses because it does not have records on the number of employees at individual waste tire storage sites or for waste tire carriers.

### Small businesses — businesses with 50 or fewer employees

DEQ is unable to quantify the impact for small businesses because it does not have individual records on the number of employees at waste tire storage sites or for waste tire carriers.

#### 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.

Based on active permits, DEQ estimates there are currently:

- Three waste tire storage site permittees of varying, unknown size.
- Two beneficial waste tire storage sites of varying, unknown size.
- Ten waste tire carriers of varying unknown size.
- Four combined waste tire carriers/storage sites of varying, unknown size.

Some of these businesses may be small businesses, but DEQ does not keep records on the sizes of individual permittees.

**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 should not require any additional administrative activities. All affected parties already have systems in place to comply with the proposed fee increase.

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

The proposed rules will not require any additional resources. There should be no changes to administration requirements to comply with the proposed fee changes.

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

The Fiscal Advisory Committee included representatives from a variety of the waste tire industry including waste tire storage sites and waste tire carriers.

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

Document title	Document location
List of permitted waste tire storage site, waste tire carriers, beneficial storage sites and combined storage site/carriers	DEQ Headquarters Office 700 NE Multnomah St. Suite 600 Portland, OR 97232

**Advisory committee fiscal review**

DEQ appointed an advisory committee for both the rulemaking and the fiscal impact statement. The advisory committee met May 31, 2022, to discuss the fiscal impact statement.

As ORS 183.33 requires, DEQ asked for the committee’s recommendations on:

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

Advisory committee members were asked to review and provide comment on the draft fiscal and economic impact statement. Committee members did not comment or add additional information beyond what DEQ shared, which is summarized in the second committee meeting summary.



## **Housing Cost**

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

DEQ determined the proposed rules would have no effect on the development costs because they are not applicable to housing.

# Racial Equity Statement

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

Overall, DEQ is proposing a new fee structure that would decrease the amount of fees paid for by most of the fee payers who store or transport waste tires. DEQ does not have demographic information for the owners or operators of waste tire storage sites and waste tire carrier operations and does not anticipate significant benefit or burden to any person based on racial identity associated with compliance and implementation of the proposed rules.

## Advisory committee review of racial equity impact

DEQ asked for the committee's input on how adoption of this rule will affect racial equity in this state.

The committee members were asked to review and provide comment on the draft racial equity statement and their comments are also summarized in the first committee meeting summary and submitted written comments. The comments, both written and orally delivered at the meeting, encompassed:

- How new and existing environmental justice requirements may affect the scope of the rulemaking
- Encouraged DEQ to consider an environmental analysis of communities that live near waste tire sites

## Environmental justice

Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, culture, education or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies.

ORS 182.545 directs DEQ and other natural resources agencies to consider environmental justice issues and conduct outreach to affected communities.

DEQ is committed to incorporating environmental justice best practices into its programs and decision-making, to ensure all people in Oregon have equitable environmental and public health protections.

DEQ's environmental justice staff evaluated each facility location using EPA's EJSCREEN, a web-based mapping tool that incorporates environmental and demographic data standardized nationally. Based on the results of those evaluations, DEQ identified five facilities — three in the Portland metro region, one in Woodburn and one in Boardman — where a significant portion of community members were more likely to primarily speak or read languages other than English and may need information about this project in languages other than English. DEQ identified that the most common non-English languages in these geographic areas are Spanish and Russian.

For the public notice published on Aug. 18, 2022, DEQ translated a fact sheet about the rulemaking and how to participate in the Sept. 19, 2022, public hearing, into Spanish and Russian. The fact sheet was shared with organizations that work with these communities including Consejo Hispano, East European Coalition, Hermiston Hispanic Advisory Committee, Latino Network, Oregon Rural Action/Acción Rural Hispana, Slavic Community Center of NW, and Verde. DEQ provided real-time Spanish and Russian interpretation at the Sept. 19, 2022, public hearing.

No people requested materials in languages other than English and no people attending the Sept. 19, 2022, public hearing used the interpretation services. Based on these results, DEQ did not provide updated translations of the materials or language interpretation for the hearing during the second comment period.

## **Federal Relationship**

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. Waste tires, as a solid waste, are regulated primarily by state governments and not by federal requirements. The proposed rules are beyond any federal requirements.

## **What alternatives did DEQ consider, if any?**

DEQ considered not updating waste tire rules. DEQ rejected this alternative as rules would still be inconsistent with statute, not current with Oregon fire code, and be inconsistent with similar solid waste permitting requirements and procedures.

# 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, or
- The rule or program is reasonably expected to have significant effects on:
- Resources, objects, or areas identified in the statewide planning goals, or
- Present or future land uses identified in acknowledge 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:

<b>Goal</b>	<b>Title</b>
5	Natural Resources, Scenic and Historic Areas, and Open Spaces
6	Air, Water and Land Resources Quality
11	Public Facilities and Services
16	Estuarine Resources
19	Ocean 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 that these proposed rules do not affect land use under OAR 340-018-0030 or DEQ’s State Agency Coordination Program. Waste tire storage sites will still be required under 340-093-0070(3) to include a statement of compatibility with the acknowledged local comprehensive plan and zoning requirements or the Land Conservation and Development Commission's Statewide Planning Goals.

# EQC Prior Involvement

DEQ did not present additional information specific to these proposed rule revisions to the EQC.

## Advisory Committee

DEQ convened the Waste Tire 2022 Rulemaking Advisory Committee. In convening this committee, DEQ selected members that reflect the range of people the proposed rules affect, both directly and indirectly. Representatives should be able to consider the policy, fiscal and economic impact of the proposed standard on the business or organization they represent. The committee met twice. The committee’s web page is located at: [Waste Tire 2022](#).

The committee members were:

Waste Tires Rulemaking Advisory Committee	
Name	Representing
Sandra Blalock	DMV-licensed auto dismantlers
Darrell Fuller	DMV-licensed auto dismantlers
Mark Barte	Metal recyclers
Hank Doane	Metal recyclers
Chandos Mahon	Tire recyclers
Larry Purdy	Oregon Department of Transportation
Chad Hawkins	Oregon State Fire Marshall
Chad Centola	Deschutes County
Jeff Bishop	Lane County
Mary Jaron Kelley	Environmental Justice
Mary Peveto	Environmental Justice
Page Hopkins	Environmental Justice

## Meeting notifications

To notify people about the advisory committee’s activities, DEQ:

- Sent GovDelivery bulletins on April 12 and May 17, 2022, a free e-mail subscription service, to the following lists (22,087 recipients) to describe upcoming meetings and how to sign up for advisory committee meeting notices:
  - DEQ Public Notices
  - Rulemaking
  - Solid Waste Permits
  - Waste Tire Rulemaking

- Added advisory committee announcements to DEQ’s calendar of public meetings at [DEQ Calendar](#).

## Committee discussions

In addition to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee provided input and discussion on the proposed draft rules concept, which were captured in the April 29, 2022, meeting notes available on the committee’s webpage at [Waste Tire 2022](#).

# Public Engagement

## Public notice

DEQ provided two notices of the proposed rulemaking and rulemaking hearing by:

- Filing notice with the Oregon Secretary of State for publication in the September 2022 Oregon Bulletin on Aug. 18, 2022;
- Filing notice with the Oregon Secretary of State for publication in the March 2023 Oregon Bulletin on Feb. 28, 2023;
- Notifying the EPA by mail;
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at: [Waste Tire 2022](#);
- Emailing the active permit holders for existing waste tire-related permits
- Emailing interested parties on the following DEQ lists through GovDelivery:
  - DEQ Public Notices
  - Rulemaking
  - Solid Waste Permits
  - Waste Tire Rulemaking
- Emailing the following key legislators required under [ORS 183.335](#):
  - Senator Kate Lieber, Chair Senate Interim Committee on Energy and Environment
  - Senator Lynn Findley, Vice-Chair Senate Interim Committee on Energy and Environment
  - Representative Pam Marsh, Chair House Interim Committee on Environment and Natural Resources
  - Representative Zach Hudson, Vice-Chair House Interim Committee on Environment and Natural Resources
  - Representative David Brock Smith, Vice-Chair, House Interim Committee on Environment and Natural Resources
- Emailing advisory committee members
- Emailing active waste tire permittees
- Posting on the DEQ event calendar: [DEQ Calendar](#)
- *For the first comment period only:* Sharing a fact sheet translated into Spanish and Russian with:
  - Consejo Hispano
  - East European Coalition

- Hermiston Hispanic Advisory Committee
- Latino Network
- Oregon Rural Action/Acción Rural Hispana
- Slavic Community Center of NW, Inc
- Verde

## Public Hearing

DEQ held two public hearings. DEQ received no comments at the either hearing. Later sections of this document include a summary of the written comments received during the two public comment periods, DEQ’s responses, and a list of the commenters. Original comments are on file with DEQ.

## Presiding Officers’ Record

### Hearing 1

Date	Sept. 19, 2022
Place	Online via Zoom
Start Time	3:59 p.m.
End Time	4:06 p.m.
Presiding Officer	Roxanne Nayar

### Hearing 2

Date	March 16, 2023
Place	Online, via Zoom
Start Time	3:30 p.m.
End Time	3:58 p.m.
Presiding Officer	Stephanie Caldera

### Presiding Officer’s Report

For both hearings, the presiding officers convened the hearings, summarized procedures for the hearings, and explained that DEQ was recording the hearings. The officer asked people who wanted to present verbal comments to sign the registration list, or if attending by phone, to indicate their intent to present comments. The officer advised all attending parties interested in receiving future information about the rulemaking to sign up for GovDelivery email notices.

As Oregon Administrative Rule 137-001-0030 requires, the officer summarized the content of the rulemaking notice.



Four people attended the first hearing and 16 people attended the second. Both hearings were held online, using the Zoom platform, and people could connect through a computer or by toll-free telephone line. No one commented orally and or submitted written comments at either hearing.

## Summary of Public Comments and DEQ Responses

### Public comment period

DEQ conducted two, separate, comment periods for this rulemaking. Following the first comment period, DEQ received information that affected parties, including some active permit holders, had not received sufficient notice of the proposed changes. To ensure meaningful review and participation was available to all, DEQ conducted a second comment period, in winter 2023.

DEQ accepted public comment on the proposed rulemaking from Aug. 18, 2022, until 4 p.m. on Sept. 22, 2022, and again March 1, 2023, until 4 p.m. on March 31, 2023. DEQ received seven comments from four individuals or organizations during the March 1-31, 2023, comment period. All comments were submitted by email.

DEQ extended the second comment period from a proposed end date of March 21 to March 31 to ensure people had sufficient time to review and provide comment. The original, shorter, comment period was based on a low number of comments received in the first comment period, held in late 2022; however, staff advised that more time would be beneficial and there would be no significant process delay for the extension of time for people to comment.

Below are summaries of comments received by the deadlines including commentor and affiliation if known. DEQ's response follows each summary. Original comments are on file with DEQ. Overall, responses were supportive of the rulemaking with specific suggestions around water quality protections.

### Comment period 1: Three comments from three commenters

<b>1. Joshua Baker</b> <b>Summarized comment:</b> The public notice email was a good model for similar communications.
<i>DEQ's response:</i> Thank you for your comment.
<b>DEQ did not make changes to the proposed draft rule language based on this comment.</b>
<b>2. Susie Smith, Oregon Association of Clean Water Agencies</b> Summarized comment: There is concern about the emerging substance 6PPD-quinone, a transformation product of the chemical 6PPD which is used in rubber tires, and potential risks from tires to water quality and fish health.
Recommendations include:

- Consult with the DEQ Water Quality Division
- Add stormwater treatment control requirements for large storage sites or require a 1200Z permit
- Limit the number of tires stored for sites not needing a waste tire storage site permit
- Ensure fire and life safety codes are consistently met related to adjacent buildings and lot lines
- Stack tires vertically
- Require tire piles be covered

*DEQ's response: Thank you for your comment. DEQ appreciates all the recommendations provided.*

Rulemaking staff consulted with the DEQ Water Quality Division, Lab and the agency toxics staff following this recommendation. EPA has not published numeric criteria recommendations for 6PPD-quinone, which states like Oregon use to develop their own standards.

DEQ participates in regional discussions to closely track updates on analytical methods, research, regulatory actions and other activities related to 6PPD-Q. DEQ is evaluating how to integrate new findings about 6PPD-Q into the agency's work and priorities *in both the Land Quality and Water Quality Divisions and in the intersections of their activities*, including potentially developing analytical methods to test for the chemical, water quality standards, toxics reduction programs, source control options, and safer chemical collaborations with other West Coast states. DEQ will continue working both within DEQ and with our partner agencies to evaluate new research findings and determine next steps.

DEQ is authorized by statute to regulate waste tire storage sites. Many tire storage sites do not meet the definition of waste tire storage sites, such as tire retailers and stored product made from tires, such as crumb rubber.

DEQ cannot limit the number of tires stored for sites not needing a waste tire storage site permit in a rulemaking process because the numbers are set in statute. Oregon Revised Statute 459.715(2) exempts retail tire sites with not more than 1,500 waste tires and tire retreading establishments with not more than 3,000 waste tires meant for retreading from waste tire storage permit requirements.

DEQ consulted with the Oregon Fire Marshal in drafting the proposed rules to ensure consistency with fire code. The proposed rules (OAR 340-096-0230(3)(c)) require waste tire piles and tire-derived material piles be located at least 50 feet from buildings and lot lines.

DEQ evaluates waste tire permits on a case-by-case basis, as permits come up for renewal or when new permits are issued. DEQ regularly consults with other divisions on necessary conditions of the permits including measures to protect water quality — such as measures to minimize and eliminate leachate generation. DEQ may re-evaluate protection measures

<p>as new EPA standards and testing methods are approved and with new research results on BMP effectiveness.</p> <p><b>DEQ did not make changes to the proposed draft rule language based on this comment.</b></p>
<p><b>3. Kristan Mitchell, Oregon Refuse and Recycling Association</b>  Summarized comment: Proposed changes will provide for more efficient transport of waste tires and improve waste tire management in Oregon.</p> <p><i>DEQ's response: Thank you for your comment.</i></p> <p><b>DEQ did not make changes to the proposed draft rule language based on this comment.</b></p>

**Comment period 2: Twenty-five comments from four commenters**

<p><b>1. Amy Koller Spears</b>  <b>Summarized comment:</b> Recommendation to grind up and reuse waste tires instead or in addition to waste tire storage.</p> <p><i>DEQ's response: Thank you for your comment. The suggested reuse of tire products is outside the scope of this rulemaking; however, reuse of waste tire materials is allowed under specified conditions.</i></p> <p><b>DEQ did not make changes to the proposed rules in response to this comment.</b></p>
<p><b>2. Jennifer Berg</b>  <b>Summarized comment:</b> Recommendation to sanitize and reuse tires as building materials for people experiencing homelessness, rather than storage or other use of the waste tires.</p> <p><i>DEQ's response: Thank you for your comment. The suggested reuse of tire products is outside the scope of this rulemaking.</i></p> <p><b>DEQ did not make changes to the proposed rules in response to this comment.</b></p>
<p><b>3. Shaun Pigott (Deschutes Redband Chapter of Trout Unlimited)</b>  Summarized comment: Concerns about the 6PPD-quinone, an emerging contaminant that is a transformation product of the chemical 6PPD which is used in rubber tires, and potential risks from waste tires to water quality and fish health.</p> <p><i>DEQ's response: Thank you for your comments. Rulemaking staff consulted with Water Quality Division and DEQ's lab, and the information provided in response to ACWA's comment in the first comment period is still applicable.</i></p> <p><i>At this time, the management of that emerging contaminant is outside of the scope of these proposed rules; however, DEQ's Laboratory and Environmental Assessment Division and Water Quality Division are aware of the concerns and working in collaboration with</i></p>

*partner states, such as Washington, to understand best means to analyze and address this emerging contaminant. DEQ lab staff participate in a monthly meeting with the EPA Region 10 laboratory and Washington Department of Ecology to track progress in the development of a method that Oregon might be able to use in the future. We have not developed any methods at the laboratory at this time.*

*Cross-program coordination is important for the successful management of toxics and protection of Oregon’s environment, and DEQ staff will continue to coordinate between media sources and agency programs on issues like 6PPD.*

**DEQ did not make changes to the proposed rules in response to this comment**

**4. Ana Mouse** – Four comment emails with multiple topics in each email, which DEQ separated into 22 distinct comments for response. A chart of those 22 comments and agency responses is included below.

**Summarized comments:** Identified several typographical or editing errors and stated that some elements of the waste tire-related rules were not well aligned with the solid waste related rule sections they are proposed for inclusion. The commenter raised concerns regarding definitional applicability in Divisions 93 and 96, and potential misalignment of fee payment schedules based on the calendar year provisions in Division 64 that would be eliminated when fee types and schedules are moved into Division 97, which has a fiscal year-based schedule.

**DEQ’s summary response:** *Thank you for these comments and questions. Many of the issues raised in your comments pertain to the successful implementation of the revised rules, and will be shared with the staff to help provide technical assistance and other support to the permit holders and potential applicants. Specific responses to the individual comments are included in the table below.*

**DEQ did make some changes to the proposed rules, as indicated in the table below.**

Comment number	Rule(s)	Summarized comment	DEQ’s response
1	340-093-0040(1)	Applicability: The rule language talks about disposal, but a waste tire storage site is not a "disposal" site	No changes recommended  DEQ interprets storage as a form of disposal, per ORS 459.705(3): <i>“Dispose” means to deposit, dump, spill or place any waste tire on any land or into any waters of the state as defined by ORS 468B.005.</i>

2	340-093-0040(3)(d)	Applicability: The rule language is about disposal, which is not a characteristic of waste tire storage sites	No changes recommended Same reasoning as provided to #1, above.
3	340-093-0050(1)	Applicability: The rule language is about disposal, which is not a characteristic of waste tire storage sites	No changes recommended Same reasoning as provided to #1, above.
4	340-093-0050(1) and (4)	Applicability: Waste tire carriers are not included in OAR 340-093-0050(1). Why are they included in OAR 340-093-0050(4)?	No changes recommended OAR 340-093-0050(4) is a different requirement than (1), so it is not necessary for waste tire carriers to be included in (1).
5	340-093-0070(3)(a)	Applicability: Proposed edits would limit applicant for waste tire storage or carrier permits to owner/operators of sites, but statute allows any person to apply for those kinds of permits	No changes recommended The statutory definitions of who may apply for a permit are retained, and edits do not create conflict with statutory intent.
6	340-093-0070(4)	Applicability: Is there a "low-risk waste tire storage site"?	No changes recommended A low-risk designation allows for an exemption from financial assurance requirements, which is not allowed for Waste Tire Storage sites, per ORS 459.720(1)(c).
7	340-093-0040(1)	Error: Redline shows proposed strikeout of language at end of the sentence that was not previously in relocated Division 64 rule language	<b>Changes recommended</b> DEQ agrees that this was an editing error.
8	340-093-0050(2), (3) and (4)	Applicability: It seems odd that a similar statement like that in 2 of OAR 340-093-0050(2) does not exist	No changes recommended OAR 340-093-0050(2)(a) through (h) refers to specific types of disposal sites, which do not include waste tire

		for Waste Tire related permits.	storage and carriers. OAR 340-093-0050(3) and (4) are the relevant requirements for waste tires, and (2) does not apply to those separate requirements.
9	340-093-0070(3)(b) and - 0070(6)(b)(C)	LUCS applicability/exemption questions: Waste tire carriers are exempt from the requirement of OAR 340-093-0070(3)(b). So, why are they required to comply with it under OAR 340-093-0070(6)(b)(C)?	No changes recommended  OAR 340-093-0070(6)(b)(C) does not require compliance from waste tire carriers. The exemptions included in 340-093-0070(3)(b) are referenced within and are not in conflict
10	340-093-0140(1)	Applicability: Referenced rule is for disposal sites, of which waste tire storage sites are not	<b>Changes recommended</b>  DEQ agrees that the reference is somewhat unclear and proposes to add "or waste tire storage" between "disposal" and "site"
11	340-096-0240(3)(e)(B)	Error: Includes reference to Division 64, should refer to relocated OAR	<b>Changes recommended</b>  DEQ agrees that this was an editing error and proposes to change citation to "OAR 340-096-230".
12	340-096-0240(1)	Statutory reference: Does ORS 459.725 require a person to obtain a permit?	<b>Changes recommended</b>  DEQ agrees that this was an editing error and proposes to strike "ORS 459.725" from the rule language.
13	340-093-0030(63)	Applicability: Is a waste tire storage site a "Disposal Site" that can be designed as low risk?	<b>Changes recommended</b>  DEQ agrees that revision is needed and proposes to remove the words "or waste tire storage site" in 340-093-0030(63). Waste Tire Storage sites are not able to be designed low risk in this manner, per ORS 459.720(1)(c).
14	OAR 340-096-0240	Requirements: Is a contingency plan still required for permits? Not clear where the requirement would be	No changes recommended  A contingency plan is still required, under the statutory obligations of

		in proposed revised rules.	waste tire storage sites: ORS 459.720(1)(b).  Proposed OAR 340-096-0240(1)(b) explicitly requires that applicants for waste tire storage permits comply with statutory provisions in ORS 459.705 to 790
15	OAR 340-093-0130 and -0140	Applicability: Currently, OAR 340-093-0130 and OAR 340-093-0140 do not apply to waste tire storage sites. The proposed rules now appear to require waste tire storage sites to comply with these rules.	No changes recommended  It is accurate that waste tire storage site permit applicants would be subject to the applicable requirements of 340-093-0130 and 340-093-0140.
16	340-093-0140(2)	Requirement: Do waste tire storage and carrier permit applications require Professional Engineer stamp on site plans for DEQ review/approval?	No changes recommended  OAR 340-093-0140(2) does not apply to waste tire storage or carrier permits.
17	340-093-0070(3)(j)(C)(v)	Requirements: The “removal of equipment and materials used to operate and maintain the site” as part of a closure plan is not currently in Division 64. Recommendation to remove proposed language.	No changes recommended  This is an intentional proposed change to address safety concerns associated with obsolete or unused equipment and waste tires being illegally dumped through remaining at a site after closure.  A person must remove any equipment and materials that have been used for the business operations of waste tire storage at the site to be closed and may pose an environmental or public health threat if remaining on-site. The decision on what equipment needs to be removed is made on a case-by-case basis in consultation between the site owner and DEQ.

18	OAR 340-093-0030	<p>Definition: What has changed that would make it necessary to remove the concept of “beneficial use” from the waste tire storage site permits from rule?</p> <p>Recommend not deleting this concept from rule.</p>	<p>No changes recommended</p> <p>The rule updates would remove the waste tire-specific definitions of beneficial use and align them, generally, with the Beneficial Use Determination definitions for other types of solid waste. The specific definition is no longer needed, so it is not proposed for inclusion in this rule update.</p>
19	OAR 340-093-0030	<p>Definition: Please add the definition of “Store” or “Storage” to Div. 93. Or create a definition for “Storage Site”.</p>	<p>No changes recommended</p> <p>Oregon Department of Justice advised DEQ on this matter and clarified that statutory definitions stand alone, and it is not necessary to duplicate statute definitions in rule. DEQ has chosen to not duplicate all the statutory definitions in ORS 459.705 for brevity.</p>
20	OAR 340-096-0210(2)(f)	<p>The text of OAR 340-096-0210(2)(f) appears to be a significant change from what is currently required for Department-Permitted solid waste disposal sites and does not retain related prior exemptions from Division 64.</p> <p>Recommendation to revise and include Division 64 exemptions.</p>	<p>No changes recommended</p> <p>OAR 340-096-0210(2)(f) exempts permitted solid waste disposal sites, storing more than 100 tires, from the obligations to obtain a Waste Tire Storage Site permit in 340-096-0210(1) if the disposal site plans can describe compliance with waste tire storage requirements in OAR 340-096-0230.</p> <p>It is accurate that some permitted solid waste disposal sites may have to update plan language and modify operations at the existing disposal site to demonstrate compliance with the intent of the waste tire storage requirements. They will not be required to obtain a waste tire storage permit, and they remain subject to the financial assurance, reporting and notification requirements of their solid waste</p>



			<p>disposal permit, not waste tire storage permits.</p> <p>DEQ's policies for disposal and storage sites are designed to manage materials in a way that does not present undue risk to human health and the environment, so aligning the requirements for the management of waste tires at permitted disposal sites with that of permitted storage sites fulfills this policy objective.</p>
21	340-096-0210(1)	<p>Applicability: Does the proposed rule limit who can apply for a waste tire storage site and waste tire carrier permit?</p>	<p>No changes recommended</p> <p>OAR 340-096-0210(1) requires that a person owning or controlling a site for waste tire storage must hold a permit before storing waste tires. Waste tire-related statute does allow any person to apply for a waste tire storage permit; however, it is reasonable to interpret "control" of a site as being the lawful operation of a business allowed on a specific property, so the statutory intent is not limited by the proposed wording.</p>
22	340-097-0120	<p>Annual reporting: Old rules used a rolling calendar year, new rules would use single fiscal year (July 1) as annual reporting and compliance fee payment</p>	<p>No changes recommended</p> <p>DEQ will provide technical assistance to the 26 permit holders for the adjusted dates of reporting and compliance fee payment to ensure appropriate implementation of this revised reporting/fee payment date.</p>

# Implementation

## Notification

The proposed rules would become effective upon filing. DEQ will notify affected parties by emailing GovDelivery list, emailing active permittees for waste tires and by posting an announcement on the DEQ website. DEQ is in regular contact with waste tire storage site and waste tire carrier permittees that are subject to these rules.

## Compliance and enforcement

Affected parties: DEQ anticipates that 25 active permit holders for waste tire storage sites and waste tire carriers will be subject to the proposed rules. These entities are already subject to waste tire rules. Active waste tire permits will remain in effect and remain enforceable until the Department issues new permits under the new rules.

DEQ staff: DEQ will work with each permitted facility or carrier to modify their permit and issue new permits under the new rules, at no additional cost. DEQ staff will work with DEQ's Office of Compliance and Enforcement to update enforcement guidelines and coordinate compliance and enforcement efforts as needed.

## Measuring, sampling, monitoring and reporting

This rulemaking does not propose any changes to existing measuring, sampling, monitoring, or reporting requirements.

## Systems

Website: DEQ will update its website with updated information and forms to reflect the proposed rule changes.

Database: DEQ will update its database of permittees and updated permit types with implementation of Your DEQ Online, DEQ's upgraded and streamlined way of accepting, processing and share information.

Invoicing: DEQ will update its invoicing systems to reflect changes in fees and integrate them into implementation of Your DEQ Online.

Process: DEQ will develop protocols to ensure DEQ is coordinating between all programs.

## Training

Affected parties: DEQ will conduct training or offer guidance for affected parties subject to new requirements.

DEQ staff: DEQ will schedule internal trainings as needed.

# Five-Year Review

## Requirement

Oregon law requires DEQ to review new rules within five years after EQC adopts them. The law also exempts some rules from review. DEQ determined whether the rules described in this report are subject to the five-year review. DEQ based its analysis on the law in effect when EQC adopted these rules.

## Exemption from five-year rule review

The Administrative Procedures Act exempts all of the proposed rules from the five-year review because the proposed rules would:

- Amend or repeal an existing rule. ORS 183.405(4).
- Correct errors or omissions in the existing rules. ORS 183.405(d).

# Accessibility Information

## Translation or other formats

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