



State of Oregon Department of Environmental Quality

Draft Fiscal Impact Statement

Modernizing Ignitable Liquids Determinations

[85 FR 40594-40608](#), Federal Rulemaking July 7, 2020, effective Sept. 8, 2020

Introduction

The Oregon Department of Environmental Quality invites public input on proposed permanent rule amendments to chapter 340 of the Oregon Administrative Rules.

This rule amendment updates test methods to allow the incorporation of modern equipment, offer an alternative to mercury-containing equipment, update current rule language to reflect changes in cross-referenced U.S. Department of Transportation (DOT) regulations, and to codify current U.S. Environmental Protection Agency (EPA) guidance specific to the definition of aqueous, as it relates to the ignitability alcohol exclusion.

The federal rule and additional information can be found at EPA's website:

<https://www.federalregister.gov/documents/2020/07/07/2020-12695/modernizing-ignitable-liquids-determinations> and <https://www.epa.gov/hw-sw846/final-rule-modernizing-ignitable-liquids-determinations>

Fee Analysis

This rulemaking does not involve fees.

Statement of fiscal and economic impact

Fiscal and Economic Impact

If adopted, DEQ anticipates the federal rule and any state-specific amendments will have little to no fiscal or economic impact. The rule applies only to analytical laboratories, which will have additional methods to employ when determining the ignitability characteristic, in addition to hazardous waste facilities that use the alcohol exclusion. Currently, there are none of these facilities in Oregon.

Assumptions

DEQ assumes the fiscal and economic impacts identified in federal rulemaking are accurate and will have no impact on Oregon facilities.

Statement of Cost of Compliance

Local, State and federal agencies

DEQ anticipates the proposed rule will have no adverse fiscal or economic impacts on local governments or state and federal agencies, as the rule applies only to analytical laboratories that perform ignitability testing.

Public

DEQ anticipates there will be no fiscal and economic impacts to the public based on the fiscal and economic impact assessment EPA performed in adopting the rule.

Large and small businesses

EPA’s economic analysis suggested that nationwide, 235 commercial laboratories are likely to experience an annualized combined cost savings of between \$78,500 and \$477,000 based on a discount rate of seven percent. Specifically, EPA economic assessment, required under the Regulatory Flexibility Act (RFA), concluded that “...this action will either relieve regulatory burden or have no net regulatory burden for all directly regulated small entities”¹.

The narrowing of the alcohol exclusion to only ethanol alcohol could potentially increase costs for hazardous waste generators using this exclusion; however, DEQ’s analysis did not identify any businesses in Oregon. As such, DEQ does not expect the proposed rule to negatively impact any businesses, large or small.

Small businesses – businesses with 50 or fewer employees

ORS 183.336 Cost of Compliance Effect on Small Businesses

¹ Source: EPA Federal Register Regulatory Flexibility Act: [Modernizing Ignitable Liquids Determinations](#)

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

DEQ does not expect the proposed rule to negatively impact any small business.

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.

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.

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

DEQ included small business representatives on the Hazardous Waste Rulemaking Advisory Committee who will advise DEQ on the cost of compliance for small businesses.

Documents relied on for fiscal and economic impact

Document title	Document location
Federal Register entries for the incorporated rule and amendments	Federal Register: Modernizing Ignitable Liquids Determinations
Federal: <i>Regulatory Impact Analysis of the Modernization of Ignitable Liquid Determination Rule</i>	Link EPA Fiscal Impact Analysis: https://downloads.regulations.gov/EPA-HQ-OLEM-2018-0830-0180/content.pdf
Oregon Annual Hazardous Waste Reporting for disposal in 2020	Oregon Department of Environmental Quality Hazardous Waste Program 700 NE Multnomah Street, Suite 600 Portland, OR 97232
Oregon Department of Employment 2020 data	Employment Department 875 Union Street NE Salem OR 97311

Advisory committee fiscal review

DEQ appointed an advisory committee in 2021 for this rulemaking.

As ORS 183.33 requires, DEQ will ask 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.

The committee will review the draft fiscal and economic impact statement and document its recommendations in the final approved meeting summary in June 2021.

The committee will determine if the proposed rules would or would not have a significant adverse impact on small businesses in Oregon.

If a significant impact is identified by the committee, as ORS 183.333 and 183.540 require, the committee will consider how DEQ could reduce the rules' fiscal impact on small business by:

- Establishing differing compliance or reporting requirements or time tables for small business;
- Clarifying, consolidating or simplifying the compliance and reporting requirements under the rule for small business;
- Utilizing objective criteria for standards;
- Exempting small businesses from any or all requirements of the rule; or
- Otherwise establishing less intrusive or less costly alternatives applicable to small business.

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 the proposed rule only affects businesses under the hazardous waste regulations.

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.