



State of Oregon Department of Environmental Quality

# Draft Fiscal Impact Statement

## Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations

[84 FR 67202](#), Federal Rulemaking Dec. 9, 2019, effective Feb. 7, 2020

## Introduction

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

The rule allows generators to manage waste under the Universal Waste Rule as specified under the Code of Federal Regulations, specifically 40 CFR 273, as an alternative to managing as a hazardous waste. Aerosol cans managed as universal waste are not subject to the full hazardous waste requirements, and are exempt from 40 CFR parts 260 through 268 if managed to the conditions of this exemption.

Nationally, adding aerosol cans to the Universal Waste Rule simplifies handling and disposal for generators, while ensuring proper management of aerosol cans and transportation to appropriate destination facilities.

This rule is less stringent than existing federal rules. Therefore, authorized state adoption is optional.

## Fee Analysis

This rulemaking does not involve fees.

## Statement of fiscal and economic impact

DEQ assumes the fiscal and economic impacts identified in the federal rulemaking are accurate and apply to Oregon facilities as determined during federal rulemaking.

At this time, DEQ is unable to quantify any additional potential economic impacts of this rule in Oregon, as there are no known additional fees or costs associated with aerosol cans.

## Fiscal and Economic Impact

This rule adds another option for the management of waste aerosol cans. Generators of this waste may determine preference for managing as hazardous waste or universal waste while weighing associated costs.

# Statement of Cost of Compliance

## DEQ

DEQ expects minor impacts for staff training and performing additional outreach to those eligible businesses through the hazardous waste technical assistance program, and enforcement guidance. This rule will require training due to additional safety measures not found in the current generator requirements under Resource Conservation and Recovery Act (RCRA), or the state hazardous waste rules.

## Local, state and federal agencies

DEQ anticipates the proposed rule will have no adverse fiscal or economic impacts on local, state or other federal agencies as the rule adds another option to manage waste aerosol cans and may result in a cost savings.

## EPA

EPA estimates the national cost savings will be \$5.3 million per year. The majority of these cost savings result from a reduction in the fixed annual costs to facilities, largely attributable to facilities changing generator status as a result of no longer having to count aerosol cans towards their generator status. EPA estimates the “fixed annual cost” savings by dropping in generator status: a large quantity generator (LQG) dropping to a small quantity generator (SQG) is expected to save a facility approximately \$3,400 each year, and a LQG dropping to a very small quantity generator (VSQG) may save a facility approximately \$6,300 to \$7,000 each year. A baseline SQG that becomes a VSQG may see its “fixed annual costs” reduced by approximately \$2,800 to \$3,600.<sup>1</sup>

## Oregon DEQ

### Public

DEQ identified no impacts to the public for this rule adoption.

### Large and small businesses

A small business is one with 50 or fewer employees.

## 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 reviewed its current list of conditionally excluded, small and large quantity generators and found this rule may affect approximately [TBD - awaiting data] listed active Oregon generators based on 2020 reporting.

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<sup>1</sup> Source: <https://www.regulations.gov/document?D=EPA-HQ-OLEM-2017-0463-0102>

**National Primary Business  
By NAICS Codes**  
Source: EPA<sup>2</sup>

<b>2 Digit NAICS code</b>	<b>Primary NAICS description</b>	<b>Total affected large quantity generators</b>	<b>Generated tons</b>
44-45	Retail Trade	4,225	395.8
31-33	Manufacturing	1,327	6,767.2
48-49	Transportation and Warehousing	138	1,214.9
62	Health Care and Social Assistance	179	29.5
92	Public Administration	116	186.8
61	Educational Services	126	18.0
54	Professional, Scientific, and Technical Services	81	63.6
56	Administrative, Support, Waste Management, Remediation Services	112	2,655.2
42	Wholesale Trade	73	130.0
22	Utilities	32	6.8
81	Other Services (except Public Administration)	65	4.2
21	Mining, Quarrying, and Oil and Gas Extraction	28	10.3
23	Construction	4	24.1
71	Arts, Entertainment, and Recreation	3	3.2
55	Management of Companies and Enterprises	6	0.6
53	Real Estate and Rental and Leasing	3	0.6
51	Information	1	0.5
11	Agriculture, Forestry, Fishing and Hunting	1	0
<b>Totals</b>		<b>6,520</b>	<b>11,115.5</b>

<sup>2</sup> EPA: <https://www.govinfo.gov/content/pkg/FR-2019-12-09/pdf/2019-25674.pdf>

**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 rule does 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 rule will not require any additional resources, such as equipment, labor, or supplies. Businesses currently generating aerosol cans either dispose of un-punctured aerosols through a certified waste hauler and pay associated disposal fees, or recycle punctured aerosol cans through a recycling firm.

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

DEQ included small business representatives on the hazardous waste rulemaking advisory committee (RAC) that will help advise DEQ on the potential cost, if any, of compliance for small businesses. DEQ also provided rulemaking notice to all manufacturers registered with Oregon DEQ as small and large quantity generators. These generator groups include small businesses.

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

Document title	Document location
Federal Register entries for the incorporated rule	Link EPA Final Rule: <a href="https://www.govinfo.gov/content/pkg/FR-2019-12-09/pdf/2019-25674.pdf">https://www.govinfo.gov/content/pkg/FR-2019-12-09/pdf/2019-25674.pdf</a>
Federal: <i>Regulatory Impact Analysis of Proposed Rule To Add Aerosol Cans to the Universal Waste Rule</i>	Link EPA Fiscal Impact Analysis: <a href="https://www.regulations.gov/document/EPA-HQ-OLEM-2017-0463-0002">https://www.regulations.gov/document/EPA-HQ-OLEM-2017-0463-0002</a>
2020 Oregon Annual Hazardous Waste Reporting	Oregon Department of Environmental Quality Hazardous Waste Program 700 NE Multnomah St., Suite 600 Portland, OR 97232
Oregon Department of Employment 2020 data	Employment Department 875 Union St. NE Salem, OR 97311

## **Advisory committee fiscal review**

DEQ appointed an advisory committee for this rulemaking.

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 document its recommendations in the final approved meeting summary in June 2021.

The committee will determine if the proposed rule 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 rule's 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](mailto:deqinfo@deq.state.or.us).