



**Oregon Department of Environmental Quality**  
July 18-19, 2019  
Oregon Environmental Quality Commission Meeting  
Agency Staff Report  
Rulemaking, Action Item C

**Hazardous Waste Fees 2019**

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## Accessibility Information

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).

## DEQ Recommendation to the EQC

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

*Proposed motion language:*

*“I move that the Oregon Environmental Quality Commission adopt the proposed rules for Hazardous Waste Program fees as seen in Attachment A of this report as part of Chapter 340 of the Oregon Administrative Rules.”*

## Overview

The Oregon Department of Environmental Quality proposes aligning its hazardous waste fees more closely with program needs and the Consumer Price Index. 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 as a multi-year and phased approach to help bridge program funding through 2024. DEQ may seek statutory amendments to modify 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:

- Reducing or eliminate the threat of exposure to hazardous waste
- Reducing the use of toxic chemicals in the workplace
- Delivering excellence in service

Since January 1986, the United States Environmental Protection Agency has authorized Oregon to manage the state’s hazardous waste, or Resource Conservation and Recovery Act, program. DEQ implements the state hazardous waste program, as defined in ORS 466.086

and as applied in OAR 340-100-0002, to ensure harmful wastes are properly managed from “cradle to grave.” DEQ remains committed to maintaining state authorization for the Hazardous Waste Program, which ensures flexibility and responsiveness in implementing the program in Oregon.

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.” Annually, DEQ’s hazardous waste program receives approximately \$3.5 million from multiple sources, including various fees (79 percent), a federal grant (20 percent), and small cost recovery funds (1 percent). The program’s General Fund allocation ended in 2014 during an agency-wide shift to grant and fee-based program funding.

The Oregon Legislature approved a budget of 25 full-time equivalent staff for the program’s 2017-2019 budget. However, current revenue is sufficient to support only 19 full-time staff. The purpose of this proposed rulemaking is to increase fees enough to avoid reductions from current staffing levels.

The proposed fees would address the forecasted \$1.2-\$1.5 million deficit in 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 impacts Oregon’s ability to maintain the state’s federally authorized hazardous waste program.

DEQ proposes revising:

- Annual hazardous waste generators activity verification fees
- Annual hazardous waste generators management method fee factors
- Annual permitted Treatment Storage and Disposal (TSD) facility compliance determination fees
- TSD permit modification fees
- TSD annual disposal administrative fees

**Who does this affect?**

These fees will affect 487 fee payers producing hazardous waste and two businesses operating permitted TSD facilities. Of those, DEQ identified 18 remedial clean-up sites, including nine closed sites that intermittently generate hazardous waste.

The proposed amendments of OAR 340-102 and -105 apply to all hazardous waste generators that are required to report.

# Statement of Need

## **What need would the proposed rules address?**

The majority of DEQ's hazardous waste program fees have remained unchanged for 20 years. The Oregon Legislature has not adjusted statutory fees since 2007 and DEQ has not adjusted fees established in rule since 1998. Neither type of fee has been adjusted for inflation. By the 2019-21 biennium, funding will be insufficient to support current service levels needed to maintain the program.

DEQ must establish the new fees by July 2019 to cover costs associated with implementing the hazardous waste program and delivering services to regulated entities.

## **How would the proposed rules address the need?**

If approved, DEQ would begin receiving new fee revenue shortly after EQC action in July 2019. This will help address the forecasted \$1.2 million - \$1.5 million deficit in the program for the 2019-21 biennium. The increased revenue will allow DEQ to maintain positions. No new positions are included in this rulemaking.

The proposed fees will ensure DEQ continues implementing the state's federally authorized hazardous waste program.

## **How will DEQ know the rule addressed the need?**

If the Environmental Quality Commission approves the fees, DEQ will use them to:

- Better align fees with the program's workload
- Maintain existing positions
- Help balance the program's budget
- Meet federal requirements to maintain state program authorization

# Rules Affected, Authorities, Supporting Documents

## Lead division

Land Quality Division

## Program or activity

Hazardous waste program

## Chapter 340 action

### Amend – OAR

340-102-0065 340-105-0113

### Statutory authority – ORS

466.165	466.020	466.165	468.020
468.020	466.075	466.195	

### Statute implemented – ORS

466.165	466.045	466.165
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## Documents relied on for rulemaking

Document title	Document location
<a href="#">2019-21 DEQ Agency Request Budget</a> <a href="#">2017-19 DEQ Legislatively Approved Budget</a> 2018 Hazardous Waste Generator Reporters <a href="#">2018 Hazardous Waste Fees Advisory Committee Notes</a>	DEQ Headquarters
2016 Oregon Employment Department Data Businesses with 50 or fewer employees	Oregon Employment Department 875 Union Street NE Salem, OR 97311 <a href="https://www.qualityinfo.org/bi">https://www.qualityinfo.org/bi</a>
<a href="#">2018 US Bureau of Labor Statistics Consumer Price Index</a> (West, not seasonally adjusted)	U.S. Bureau of Labor Statistics 2 Massachusetts Avenue, NE Washington, DC 20212-0001

# Fee Analysis

The Environmental Quality Commission's approval of these proposed rule amendments would increase existing hazardous waste program fees. Authority to adopt the proposed rules is: ORS 466.020, 466.045, 466.075, 466.165, 466.195 and 468.020.

## **Brief description of proposed fees**

This rulemaking amends the hazardous waste generator and TSD facility fees to address a projected funding shortfall.

## **Reasons**

The proposed fees would address the projected Hazardous Waste Program funding shortfall in the 2019-21 biennium. Factors contributing to the projected funding shortfall include:

### **Change in state revenue**

The Hazardous Waste Program received \$1.2 million in General Funds in 1999. Since then, the Oregon Legislature has steadily reduced the amount of General Fund support to this program and eliminated all General Funds to the program in 2014.

### **Change in fee revenue**

Since 2004, the program's funding has significantly decreased. This includes landfill hazardous waste tipping fees, approximately 60 percent of the program's funding, and hazardous waste permit fees. Program staffing during this time decreased by 30 percent.

### **Change in other fund revenue**

Since 2004, the program's Environmental Protection Agency Performance Partnership Grant funding decreased by approximately seven percent.

### **Increased program costs**

Increased program costs include, but are not limited to, salaries, benefits, and information technology updates. This includes replacing two information systems to ensure continued compatibility with the State of Oregon's information technology standards and security requirements.

### **Change in transaction costs**

The program has two currently operating TSD-permitted facilities. Permit modification fees remain at the 1997 level, without adjustment for inflation.

### **Program streamlining**

The program has cut costs over the last decade by minimizing expenses, reducing overhead, holding positions vacant and supplementing costs as needed with a small carryover ending fund balance.

### **Static number of base fee payers**

The number of hazardous waste generators reporting annually in the past 10 years has remained relatively static with an average 470. However, in the same timeframe, the program's staff level decreased from 39 legislatively-approved FTE to the current 25 FTE.

## **Fee proposal alternatives considered**

The program considered the following fee increase alternatives:

- No fee increases, which does not address the projected shortfall in revenue
- Additional cost saving activities, which would require additional staffing reductions and possible loss in ability to meet EPA commitments needed to maintain program authorization.

In addition, the program considered the following, which requires changing the Oregon Revised Statutes. However, these options are out of the scope of the current rulemaking:

- Amending hazardous waste generator fee cap of \$32,500 to help cover associated costs
- Amending hazardous waste metric ton \$130 fee
- Amending hazardous waste permit renewal fees of \$150,000 to help cover costs
- Tying fees to Inflation or Consumer Price Index
- Recovering costs for permit modifications

## **Fee payer**

The proposed rules will increase the annual hazardous waste activity verification fees for businesses generating more than 220 pounds of hazardous waste per calendar month or 2.2 pounds of acutely hazardous waste per calendar month. The amendments will also increase all management method factors. DEQ estimates this will affect 487 fee payers.

The proposed rules will also increase the annual hazardous waste permit compliance determination fees, increase the hazardous waste permit modification fees, and add an annual administrative disposal fee for operating permitted TSD facilities. The proposed rules will affect two operating permitted TSD facilities.

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

DEQ convened a nine-member Hazardous Waste Fees Advisory Committee that also served as the fiscal advisors in the fee-setting process. Committee members included statewide geographic representation, directly and indirectly affected regulated parties for large and small businesses, business advocates and environmental interests.

## Fee payer input

DEQ utilized the advisory committee’s discussions in forming draft proposals. The draft proposals were part of the required formal notice process that included a public hearing and an opportunity for the public to comment.

DEQ considered all comments before finalizing and presenting the proposed fee package to the commission in July 2019.

## When were these fees last increased?

- The generator management method factor has not changed since established in 1992.
- The generator annual activity verification fee last changed in 1997 when the small quantity generator fee increased from \$200 to \$300 and the large quantity generator fee increased from \$350 to \$525.
- Permitting annual compliance determination fees have remained the same since 1997 and permit modification fees since 1998.

Hazardous waste generator fee statutory changes not considered in this rulemaking:

- The annual metric ton generator fee changed in 2007 from \$110 to \$130 per metric ton
- The hazardous waste generation fee cap changed in 2007 from \$27,500 to \$32,500

## How long will the current fees sustain the program?

The program has reduced expenditures and is still experiencing an annual \$1.0 million plus deficit. Without additional revenue, the program will exhaust all available fund sources in July 2019 and the program will need to consider other cost reductions by December 2019.

Current Biennial Fees		
Costs	Amount	Percentage Covered by this Source
Program costs covered by fees*	\$6,070,641	74 percent
Program costs covered by General Fund	\$0	0 percent
*Source: DEQ 2017-19 Legislative Approved Budget		
Fee Last Changed		
Established Management Method Factor	1992	
Generator Annual Activity Verification	1997	



Current Biennial Fees	
Permit Annual Compliance Determination	1997
Permit Modification Fee	1998

## How long will the proposed fee sustain the program?

DEQ is looking at several fee-funding alternatives in a multi-phase effort to address this deficit and to sustain the program through 2026. During the current rulemaking, Phase I, DEQ will address fees requiring rule changes only. DEQ must make additional rule changes and propose new statutory changes within the next seven years to secure long-term, stable funding to maintain the program at its current full-time equivalent service level.

Proposed Fees		
Change	Amount	Percent
Expected change in revenue (+/-) – generators	+ ~ 1,127,527	73 percent
Expected change in revenue (+/-) – permitting	+ ~ \$576,500	159 percent
Expected effective date (begins multi-year increase)		
July 2019 with phase-in through 2024 for generator fees		

## Transactions and revenue

For hazardous waste generators annually reporting:

Transactions and Revenue				
Biennium	Number of transactions	Number of fee Payers	Impact on revenue (+/-)	Total revenue (+/-)
2017-19 current	~ 487	~ 487	+ \$0	+ \$ 0
2019-21 biennium	~ 487	~ 487	+ ~ \$600,953	+ ~\$2,150,953
2021-23 biennium	~ 487	~ 487	+ ~ \$299,477	+ ~\$2,450,429
2023-25 biennium	~ 487	~ 487	+ ~ \$227,098	+ ~\$2,677,527

For permitted hazardous waste TSD facilities:

<b>Transactions and Revenue</b>				
<b>Biennium</b>	<b>Number of transactions</b>	<b>Number of fee payers</b>	<b>Impact on revenue (+/-)</b>	<b>Total revenue (+/-)</b>
2017-19 current	2	2	+ \$0	+ \$0
2019-21 biennium	2	2	+ ~\$576,500	+ ~\$939,000

## Generator Fees

DEQ's current annual hazardous generator fee has two components:

1. An annual activity verification fee = \$525 or \$300, dependant on how much hazardous waste is generated, which is added to:
2. An annual hazardous waste generation fee (includes management method factor) = amount of metric tons waste multiplied by \$130 multiplied by the management method factor

For final formula:

[Activity Verification Fee + (# metric tons x \$130 x management method fee factor)\*]

\* Subject to \$32,500 cap

Both parts combine to represent the total fee included on the annual hazardous waste invoice. DEQ has a current generator fee cap of \$32,500, which applies only to Part 2 of this formula.

### 1. Annual activity verification fee

The fee is based on the generator category. A generator can be a large quantity generator, a small quantity generator, or a conditionally exempt generator. All hazardous waste generators that notify DEQ of their activities and obtain a Resource Conservation and Recovery Act Site Identification Number must verify their basic registration information annually. They are assessed a fee according to their generator category.

a. Current Annual Activity Verification Fees are:

- Large Quantity Generators- \$525
- Small Quantity Generators- \$300
- Conditionally Exempt Generators - No fee

The table below shows how DEQ defines hazardous waste generators:

<b>Informational Only: Defines hazardous waste generator categories</b>		
<b>Generator Category</b>	<b>Accumulation Limit</b>	<b>Storage/Shipping Schedule</b>
<p><b>Large Quantity Generator</b> Generates more than 2,220 lbs. of hazardous waste per calendar month, and generates more than 2.2 lbs. of acutely hazardous waste per calendar month.</p>	No limit	Generator must ship all accumulated hazardous waste off-site within 90 days of accumulation start date. If generator does not meet the 90-day deadline, they are required to obtain a hazardous waste storage facility permit.
<p><b>Small Quantity Generator</b> Generates more than 220 lbs. and less than 2,200 lbs. of hazardous waste per calendar month, and generates no more than 2.2 lbs. of acutely hazardous waste per calendar month.</p>	<ul style="list-style-type: none"> <li>• 13,200 lbs. If generator exceeds this limit, a permit is required</li> <li>• Accumulates no more than 2.2 lbs. of acutely hazardous waste at any time.</li> </ul>	Generator must ship waste off-site within 180 days after the waste was first placed in a container. If the receiving facility is more than 200 miles from generation site, the generator may store wastes up to 270 days.
<p><b>Conditionally Exempt Small Quantity Generator</b> Generates 220 lbs. or less of hazardous waste per calendar month and generate no more than 2.2 lbs. of acutely hazardous waste per calendar month.</p>	<ul style="list-style-type: none"> <li>• 2,200 lbs.</li> <li>• Accumulates no more than 2.2 lbs. of acutely hazardous waste at any time.</li> </ul>	2,200 lbs. or less of hazardous waste may be stored indefinitely.

The examples below show how DEQ calculates the hazardous waste generator fees:

<b>Informational Only: Calculating Hazardous Waste Generator Fees</b>						
<b>Management Method</b>	<b>Annual Amount Managed</b>	<b>Per Metric Ton</b>	<b>Management Method Factor</b>	<b>Waste Generation Fee**</b>	<b>Generator Activity Verification Fee</b>	<b>Total Invoice</b>
Landfill Disposal	4 metric tons (8,820 lbs.)	X \$130	X 1.50	= \$780	+ \$300	\$1,080
Fuel Blending	4 metric tons (8,820 lbs.)	X \$130	X 0.75	= \$390	+ \$525	\$ 915

## Informational Only: Calculating Hazardous Waste Generator Fees

\*\* The annual maximum any one generator may pay in hazardous waste generation fees is \$32,500. This annual maximum does not include the activity verification fee.

### b. Proposed Annual Activity Verification Fees:

A three-year phase-in will increase the Annual Hazardous Waste Activity Verification Fee as defined in OAR 340-102-0065(4). The fee will increase by 80 percent to better align with the Consumer Price Index (1997-2021: 72 percent). The increase will follow this schedule:

<b>Hazardous Waste Generator Annual Activity Verification Fee</b>				
<b>Generator Type</b>	<b>Effective in Calendar Year</b>			
	<b>Current 2018</b>	<b>2019 (25%)**</b>	<b>2020 (20%)**</b>	<b>2021 &amp; After (20%)**</b>
Large Quantity Generators	\$525	\$656	\$788	\$945
Small Quantity Generators	\$300	\$375	\$450	\$540
Conditionally Exempt Generators	\$0	\$0	\$0	\$0
Annual Fee Revenue*	\$190,200	~\$237,750	~\$285,300	~\$342,360
Additional Annual Revenue	\$0	\$47,550	\$47,550	~ \$57,060

\*Revenue based on 2017 hazardous waste generator invoicing of 196 LQGs and 291 SQGs.  
 \*\* Percent increase is over previous year.

## 2. Annual hazardous waste generation fee

This fee applies to large- and small-quantity generators reporting hazardous waste generation and management during a calendar year. One portion of this calculation is the management method factors, which this rulemaking is addressing. The management method factors reflect Oregon's environmental hierarchy of preferred management methods and offer financial incentives to responsibly manage and reduce hazardous waste.

### a. Current Management Method Fee Factors:

<b>Management Method</b>	<b>Fee Factor</b>
Metals recovery (for reuse)	0.50
Solvents recovery	0.50

Management Method	Fee Factor
Other recovery	0.50
Hazardous wastewater not managed immediately upon generation, only in on-site elementary neutralization unit(s) or wastewater treatment unit(s)	0.50
Incineration	1.00
Energy recovery (reuse as fuel)	0.75
Fuel blending	0.75
Aqueous inorganic treatment	1.00
Aqueous organic treatment	1.00
Aqueous organic and inorganic treatment combined	1.00
Sludge treatment	1.00
Other treatment	1.00
Stabilization	1.00
Neutralization offsite	0.75
Land disposal	1.50
Management method unknown or not reported	2.00
RCRA-exempt management elementary neutralization unit(s) on-site (includes only corrosive characteristic hazardous waste managed immediately upon generation only in an on-site elementary neutralization unit(s))	0.00
Permitted discharge under the federal Clean Water Act Section 402 or 307b (includes only hazardous wastewater managed immediately upon generation only in an on-site wastewater treatment unit(s))	0.00

b. Proposed Management Method Factors:

A six-year phase-in will increase the management method factors as defined in OAR 340-102-0065(3)(c). This will increase by 70 percent to better align with the Consumer Price Index (1992-2021: 94 percent) using this schedule:

Proposed Management Method Factor Increase							
Effective in Calendar year	Recovery & Wastewater	Energy Recovery & Neutralization (off site)	Incineration & Treatment	Land Disposal	Unknown & Not Reported	Potential Revenue* by year	Potential Additional Annual Revenue
Current-2018	0.50	0.75	1.00	1.50	2.00	\$1,390,457	\$0
2019 (12%)+	0.56	0.84	1.12	1.68	2.24	\$1,557,457	~\$166,999

<b>Proposed Management Method Factor Increase</b>							
<b>Effective in Calendar year</b>	<b>Recovery &amp; Wastewater</b>	<b>Energy Recovery &amp; Neutralization (off site)</b>	<b>Incineration &amp; Treatment</b>	<b>Land Disposal</b>	<b>Unknown &amp; Not Reported</b>	<b>Potential Revenue* by year</b>	<b>Potential Additional Annual Revenue</b>
2020 (17%)+	0.66	0.98	1.31	1.97	2.62	\$1,822,224	~\$264,768
2021 (5%)+	0.69	1.03	1.38	2.06	2.75	\$1,913,336	~ \$91,111
2022 (8%)+	0.74	1.11	1.49	2.23	2.97	\$2,066,403	~\$153,067
2023 (7%)+	0.80	1.19	1.59	2.39	3.18	\$2,211,051	~\$144,648
2024 (7%)+ & After	0.85	1.28	1.70	2.55	3.40	\$2,365,824	~\$154,774
*Revenue based on 2017 hazardous waste generator invoicing. + Calculated by percent multiplied by current revenue and subsequently over previous year							

c. Proposed New Management Method Factor

The proposed rule would add a new management method factor to encourage brownfield or orphaned industrial property site cleanups receiving grant funding. DEQ identified two sites in the last six years that would meet this criteria. Each of those sites had ~\$30,000 in disposal costs.

<b>New Management Method Factor</b>	
<b>Effective in Calendar year</b>	<b>Grant-funded environmental cleanup of a brownfield or orphaned industrial property involving waste residues for off-site treatment and/or landfill disposal</b>
2019	0.00

### Permitting Fees

DEQ's current permitting fees include two components addressed in this rulemaking:

1. Annual permit compliance determination fee
2. Permit modification fee

Permitted hazardous waste TSD facilities with active operating hazardous waste unit(s) are subject to 40 C.F.R. §§ 264, 265, 270, and OAR 340, and subject to the annual compliance determination fee.

DEQ will assess permittees a permit modification fee. This excludes modification related to corrective action.

## 1. Annual Compliance Determination Fee

a. This increases permitted TSD annual compliance determination fees in Oregon Administrative Rule 340-105-0113(3). The fee increases by 31 percent to better align with the Consumer Price Index (1997-2021: 72 percent) using this schedule:

<b>Permitted Treatment, Storage and Disposal Compliance Determination Fee</b>			
<b>Facility Activity Type</b>	<b>Current 2018</b>	<b>Effective in Calendar Year 2019</b>	<b>Proposed Annual Revenue</b>
Storage	\$18,750	\$24,500	\$49,000
Treatment: Single Technology	\$37,500	\$49,500	\$0
Treatment: Multiple Technology	\$75,000	\$98,500	\$98,500
Disposal Facility: Single Disposal Unit	\$75,000	\$98,500	\$0
Disposal Facility: Multiple Disposal Units	\$150,000	\$196,500	\$196,500
Post-Closure Facility	\$18,750	\$24,500	\$0
<b>Revenue Effect</b>			
Annual Permit Fee Revenue*	\$262,500	--	~\$344,000
Additional Annual Revenue	--	--	~\$81,500
*Revenue based on 2018 TSD reporting data of 2 Storage, 1 Multi-Treatment, 1 Multi-Disposal			

Where more than one hazardous waste management activity takes place at a single facility, DEQ will assess all of the applicable category Annual Compliance Determination Fees.

### b. New Permitted Operating Hazardous Waste Disposal Administrative Fee

This introduces a new administrative fee of \$5.50 per metric ton of waste disposed into a permitted Subtitle C land unit, by operating Oregon permitted hazardous waste disposal facilities. DEQ expects approximately 80 to 90 percent of the metric ton volume will be from out-of-state generators. The rulemaking adds the new annual administrative fee using this schedule:

<b>New Permit Administration Fee</b>		
<b>Type</b>	<b>Current 2018</b>	<b>Effective in Calendar Year 2019</b>
Permitted Operating Disposal Fee	\$0	\$5.50 per metric ton
<b>Revenue Change</b>		
Annual fee revenue*	\$0	- -
Potential additional revenue	- -	~\$495,000
*Revenue based on ~90,000 metric tons hazardous waste disposed in Oregon annually		

## 2. Permit Modification Fee

This increases the permit modification OAR 340-105-0113(4) fees 59 percent. This better aligns with the Consumer Price Index (1992-2021: 94 percent) and streamlines the modification types to remove low and medium workloads using this schedule:

<b>Permit Modification Fee</b>			
<b>Modification Type</b>	<b>Current 2018</b>	<b>Effective in Calendar Year 2019</b>	<b>Potential Variable Revenue*</b>
Class 1 Low Workload	\$425	\$0	- -
Class 1 Medium Workload	\$1,500	\$0	- -
Class 1 High Workload	\$2,800	\$4,500	\$9,000
Class 2 Low Workload	\$5,000	\$0	- -
Class 2 Medium Workload	\$10,000	\$0	- -
Class 2 High Workload	\$20,000	\$31,800	\$31,800
Class 2 Processed as Class 3	\$31,000	\$0	- -
Class 3 Low Workload	\$7,500	\$0	- -
Class 3 Medium Workload	\$15,000	\$0	- -
Class 3 High Workload	\$31,000	\$49,300	- -
<b>Revenue Effect</b>			



<b>Permit Modification Fee</b>			
<b>Modification Type</b>	<b>Current 2018</b>	<b>Effective in Calendar Year 2019</b>	<b>Potential Variable Revenue*</b>
Revenue*	~\$7,350	- -	~\$40,800
Potential Additional Revenue	- -	- -	~\$33,450
*Revenue based on 20-year average of 2-Class 1 and 1-Class 2			

DEQ only receives permit modification fees when permittees request a modification. These fees are not a reliable source of annual revenue.

## Statement of Fiscal and Economic Impact

### Fiscal and Economic Impact

#### For Generators

The proposed generator rules will increase the annual hazardous waste reporting fees for businesses generating more than 220 pounds of hazardous waste per calendar month, generating 2.2 pounds of acutely hazardous waste per calendar month, or accumulating more than 2,200 pounds at any one time. The rulemaking will not affect conditionally exempt generators generating less than the above amounts of hazardous waste.

DEQ reviewed its hazardous waste registered businesses and found this rule will affect 487 active businesses that report their hazardous wastes. A small number of Oregon businesses may report periodically as they conduct a chemical clean out or one-time hazardous waste cleanup event that would move them from the conditionally exempt category to a small or large quantity generator of hazardous waste.

#### For Permitting

The proposed permitting rules will increase the annual hazardous waste compliance determination fees, add a new annual permitted operating disposal administrative fee, and amend the permit modification fees for businesses permitted to operate TSD facilities. DEQ reviewed its hazardous waste permitted TSD facilities and found this rule would affect two active operating TSD facilities that report their hazardous wastes.

### Statement of Cost of Compliance

DEQ anticipates this rule adoption will cause small economic impacts on its own expenditures. DEQ will make administrative changes on the annual reporting and accounting systems. We expect this impact to be minimal.

Any rule change requires staff training and outreach to the regulated community. DEQ expects this impact to be minimal, as DEQ currently performs outreach through the hazardous waste annual reporting notifications and through the hazardous waste technical assistance program to regulated facilities.

**State, federal and local governments**

**Direct Impacts**

For state, federal and local governments annually reporting their hazardous waste generation and management activity, compliance costs associated with the proposed rules are identical to costs described under “Large Businesses.”

**Indirect Impacts**

The proposed rules would have the same indirect costs as “Large Businesses” indirect impacts.

**Public**

**Direct Impacts**

DEQ anticipates there will be no fiscal impact on the public, as fees and a federal grant fund the program. DEQ does not use any Oregon General Funds to support the Hazardous waste program.

**Large businesses - businesses with more than 50 employees**

**Hazardous Waste Generator Direct Impacts**

DEQ anticipates there will be a fiscal impact to businesses generating and managing hazardous wastes who report. The tables below provide summaries of the proposed direct financial impact of each total fee increase proposal for generators and permitted facilities, respectively.

<b>Generator - Large Business Fiscal Impact by 2024</b>	
<b>Annual Activity Verification Generator Fees</b>	
<b>SQG</b>	<b>LQG</b>
\$240 increase (200 businesses)	\$420 increase (133 large businesses)
<b>Management Method Fee factors</b>	
(this analysis does not includes spills, cleanup sites, remediation sites or closed facilities, to provide the most accurate representation of future impacts)	

<b>Generator - Large Business Fiscal Impact by 2024</b>	
<b>Annual Activity Verification Generator Fees</b>	
<b>SQG</b>	<b>LQG</b>
\$467 average increase (200 businesses)	\$4,457 (average increase, including cap*) (133 businesses)
*This increase would result in 13 additional LQGs reaching the cap.	

<b>Management Method Fee factors Large Business Impacts Estimated Breakdown</b>			
<b>SQG</b>		<b>LQG</b>	
<b>Increase</b>	<b># Generators</b>	<b>Increase</b>	<b># Generators</b>
\$2,001 - \$4,000	5	\$15,001 - \$21,000	11 (4*)
\$1,001 - \$2,000	23	\$10,001 - \$15,000	12 (4*)
\$500 - \$1,000	21	\$5,000 - \$10,000	18 (4*)
< \$500	151	< \$5,000	92 (1*)
Total	200	Total	133
*Denotes facilities that will reach the cap based on the increase.			

<b>Permitted Facility – Large Business Fiscal Impact by 2019</b>	
<b>Proposed - Fee type</b>	<b>Fiscal Impact</b>
Permitting Annual Compliance Determination fees	Two permitted operating TSD facilities will be subject to fee increases of \$75,750 and \$5,750 respectively for an increase of 31%.

**Management Method Fee factors  
Large Business Impacts Estimated Breakdown**

New Operating TSD Disposal Administrative Fee	<p>One permitted operating hazardous waste disposal facility will be subject to an annual \$5.50 per metric ton disposal administrative fee. This may result in potentially \$495,000 in additional revenue based on ~ 90,000 tons annually disposed in a permitted Subtitle C land disposal unit. Approximately 10-20% is in-state disposal.</p> <p>If the \$5.50 per metric ton is passed through directly to Oregon’s hazardous waste large business generators, the estimated impacts of this fee is as follows, based on 2017 disposal data:</p> <ul style="list-style-type: none"> <li>• Average annual increase to the 23 reporting CEGs \$5.83</li> <li>• Average annual increase to the 14 SQGs \$12.14</li> <li>• Average annual increase to the 32 LQGs \$451.34</li> </ul>
Permitting Modification Fee	<p>Permitted TSD facilities will be subject to the applicable hazardous waste permit modification fee when requesting permit modifications. The impact depends on the classification of work needed. A 20-year average identified submission of three permit modifications per year, or roughly ~\$40,800 under the amended fee. This proposal would result in an increase in potential revenue of ~\$33,450.</p>

**Hazardous Waste Generator Indirect Impacts**

There may be a fiscal impact in addition to the new operating TSD disposal administrative fee. The proposed rules include an increase in permitted hazardous waste TSD permitting fees that may affect generators. Because of increased fees, Oregon’s two operating facilities may decide to pass the costs on to businesses utilizing their services. DEQ is not responsible for these types of business decisions and cannot quantify what those potential costs might be.

**Permitted Treatment, Storage and Disposal Facility Direct Impacts**

DEQ anticipates there will be a fiscal impact to two operating permitted hazardous waste TSD facilities generating and managing hazardous wastes who report. The impact to those businesses would be a direct cost increase of 31 percent to their annual compliance determination fees. In addition, if the facility seeks a modification to its current permit, the business would have a direct cost increase of 59 percent. The proposed fee table above shows a detailed breakdown of the estimated financial impact.

**Permitted Treatment, Storage and Disposal Facility Indirect Impacts**

DEQ anticipates adopting the rules will have no indirect fiscal impacts to permitted TSD businesses. The businesses already report annually, and the proposed rules do not add facilities.

## Small businesses – businesses with 50 or fewer employees

### Direct Impacts

The proposed rule changes will not affect most small business in Oregon. This is because the rules only affect businesses generating more than 220 pounds a month of hazardous waste or more than 2.2 pounds of acutely hazardous waste. DEQ identified 131 small businesses the rules will affect.

DEQ determined the proposed rules would have direct economic impact on all small businesses that report generated hazardous wastes.

DEQ determined the economic impacts on these small businesses will not likely pose a significant impact due to the phased-in multi-year stepped increases. The direct impacts are outlined in the tables below for small business generators and permittees.

Proposed Fee type		Generator - Small Business Fiscal Impact by 2024	
Annual Activity Verification Generator		SQG: \$240 increase (80 small businesses)	
		LQG: \$425 increase (51 small businesses)	
Management Method Fee Factors		SQG: \$695 average increase (80 small businesses) (This increase would result in three (3) additional LQGs reaching the cap.)	
		LQG: \$3,726 average increase (51 small businesses) (To provide the most accurate representation of future impacts, this analysis does not include spills, cleanup, remediation or closed facilities.)	
Management Method Fee factors Small Business Impacts Estimated Breakdown			
SQG		LQG	
Increase	# Generators	Increase	# Generators
\$1,001 - \$4,000	18	\$10,001 - \$20,000	6
\$501 - \$1,000	14	\$5,001 - \$10,000	7 (1*)
\$100 - \$500	36	\$1,000 - \$5,000	20 (1*)
< \$100	12	< \$1,000	18 (1*)
Total	80	Total	51

<b>Proposed Fee type</b>	<b>Generator - Small Business Fiscal Impact by 2024</b>
*Denotes facilities that will reach the cap based on the increase.	

<b>Proposed Fee type</b>	<b>Permitted Facility - Small Business Fiscal Impact by 2019</b>
Permitting fees	Oregon's two permitted TSD sites are national companies with more than 50 employees, and are not small businesses.

The following presents a comparison of generator pre-rule and post-rule implementation invoices for five facilities. The facilities chosen represent the 25<sup>th</sup>, 50<sup>th</sup>, 75<sup>th</sup>, 90<sup>th</sup> and 95<sup>th</sup> percentile based on the volume of hazardous waste generated for calendar year 2017, as reported in 2018.

<b>Estimated Invoices for Small <sup>(1)</sup> and Large <sup>(2)</sup> Quantity Generators</b>										
<b>Cost</b>	<b>Percentile</b>									
	<b>25<sup>th</sup> (1)</b>		<b>50<sup>th</sup> (1)</b>		<b>75<sup>th</sup> (2)</b>		<b>90<sup>th</sup> (2)</b>		<b>95<sup>th</sup> (2)</b>	
	<b>2018</b>	<b>2024</b>	<b>2018</b>	<b>2024</b>	<b>2018</b>	<b>2024</b>	<b>2018</b>	<b>2024</b>	<b>2018</b>	<b>2024</b>
Verification Fee	\$300	\$540	\$300	\$540	\$525	\$945	\$525	\$945	\$525	\$945
Mgt. Method Factor	\$104	\$289	\$226	\$629	\$1,004	\$2,792	\$3,166	\$8,808	\$21,799	\$32,500
Projected Increase	\$425		\$643		\$2,213		\$6,067		\$11,126	

<b>Proposed Fee type</b>	<b>Permitted Facility - Small Business Fiscal Impact by 2019</b>
Permitting Annual Compliance Determination fees	This increase is unlikely to directly affect small businesses. Oregon's two permitted TSD facilities are national companies with more than 50 employees nationwide.

Proposed Fee type	Permitted Facility - Small Business Fiscal Impact by 2019	
<b>New Operating TSD Disposal Administrative Fee</b>		
<b>Average Annual Increase</b>		
If the \$5.50 per metric ton is passed directly to small businesses, the estimated impacts will be as follows, based on DEQ 2017 reported hazardous waste disposal data:		
29 CEGs	\$21.45	
24 SQGs	\$10.29	
17 LQGs	\$109.71	

**Indirect Impacts**

The proposed rules would have the same indirect costs as “Large Businesses.”

**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 rules.**

Using recent employment data, DEQ compared the 487 businesses registered with the hazardous waste program to current self-reported employment data to determine how many businesses employ 50 or fewer employees. One hundred and thirty-one are small businesses. Of those 131 businesses, 51 are large quantity hazardous waste generators, and 80 are small quantity hazardous waste generators. One is a conditionally exempt generator and thus not subject to the proposed rules.

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

No additional activities are required to comply with the proposed rules. Registered hazardous waste generators already pay hazardous waste fees.

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

No additional resources are required for compliance with the proposed rules. Registered hazardous waste generators already pay hazardous waste fees.

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

DEQ included small business representatives and delegates from Oregon Business Industry who represent small businesses in Oregon on the Hazardous Waste Fee Advisory Committee. The Committee advised DEQ on the cost of compliance for small businesses. DEQ also provided the rulemaking notice to all hazardous waste businesses registered and who reported as fee-payers within the last three years with Oregon DEQ. These groups included small businesses. Small businesses also had the opportunity to comment through the public comment and public hearing.

**Documents relied on for fiscal economic impact**

Document title	Document location
Oregon Department of Environmental Quality Annual Hazardous Waste Reporting for disposal in 2016 as reported in 2017	Oregon DEQ Hazardous waste program 700 NE Multnomah St, Ste. 600 Portland, OR 97232-1400
Oregon Department of Environmental Quality Annual Hazardous Waste Reporting for disposal in 2017 as reported in 2018	Oregon DEQ Hazardous waste program 700 NE Multnomah St, Ste. 600 Portland, OR 97232-1400
Oregon Department of Employment 2016 data	Employment Department 875 Union Street NE Salem OR 97311

**Advisory committee fiscal review**

DEQ convened a nine-member advisory committee that also served as the fiscal advisors in the fee-setting process. The committee consisted of statewide, geographic representation, directly and indirectly affected regulated parties for large and small businesses, business advocates and environmental interests.

During the last committee meeting, DEQ asked the committee to review the draft Fiscal Impact Statement and consider the fiscal impacts of the proposed rules, as OAR 183.333 requires. DEQ specifically asked the committee:



- a. Will the rule have a fiscal impact?
- b. If so, what is the extent of the fiscal impact?
- c. Will the rule have a significant adverse impact on small businesses (<50 employees)?
- d. If so, how can DEQ reduce the economic impact of the rule on small businesses?

## **Committee Findings**

The committee determined the proposed rules will have economic impacts to all hazardous waste fee payers. The proposed rules will affect all hazardous waste annual reporters, including some businesses that intermittently generate and report hazardous waste due to a one-time cleanout or other infrequent activity. The impact will be different for each business.

The committee did not identify significant adverse impact on small businesses in Oregon. Without additional information, such as business revenues, the full impact to small businesses is difficult to determine. To help minimize the impacts to businesses, the proposed generator fee increases will be phased-in over multiple years.

The committee meeting notes are posted to DEQ's Hazardous Waste Fees 2019 Rulemaking web page: [Advisory Committee Webpage](#).

## **Housing cost**

ORS 183.534 requires DEQ to evaluate whether the proposed rules would affect 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 rules only affect regulated businesses under the hazardous waste regulations.

# **Federal Relationship**

## **Relationship to federal requirements**

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.

The proposed rules are not different from or in addition to federal requirements in 40 C.F.R. §§260-268, 270, 273, and Subpart A and Subpart B of part 124.

# Land Use

## 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 rules affect land use if:

- The statewide land use planning goals specifically refer to the rule or program
- The rule or program is reasonably expected to have significant effects on:
  - Resources, objectives or areas identified in the statewide planning goals
  - Present or future land uses identified in acknowledged 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	Open Spaces, Scenic and Historic Areas, and Natural Resources
6	Air, Water and Land Resources Quality
9	Ocean Resources
11	Public Facilities and Services
16	Estuarial 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 these proposed rules do not affect land use under OAR 340-018-0030 or DEQ's State Agency Coordination Program.

# EQC Prior Involvement

On Jan. 24, 2019, DEQ presented to the EQC general program information for these proposed rule revisions.

# Advisory Committee

## Background

DEQ's nine-member advisory committee, serving as the fiscal advisors in the fee-setting process, met three times in 2018: Aug. 8, Sept. 13 and Oct. 18. Supporting documents are located on the committee's webpage at: [Hazardous Waste Fees 2019 Rulemaking](#).

The committee members were:

<b>Hazardous Waste Fees Rulemaking Advisory Committee</b>	
<b>Name</b>	<b>Representing</b>
Keri Bishop	Large Quantity Generator, Northwest
Jim Denson, Jr.	Hazardous Waste Permittee, Large Quantity Generator, Eastern
Michael Doherty	Small Business, Small Quantity Generator, Northwest
Lori Grant	Environment, Statewide
Bruce Johnson	Large Quantity Generator, Eastern
Marjorie MartzEmerson	Environment, Small Businesses Statewide, Eastern
Matthew Sauvageau	Hazardous Waste Permittee, Large Quantity Generator, Northwest
Mike Standen	Small Quantity Generator, Small Business, Western
Geoffrey B. Tichenor	Oregon Business & Industry, Small Businesses, Statewide
Kim Kaminski (Alternate)	Hazardous Waste Permittee, Large Quantity Generator, Northwest
Amber Petersen (Alternate)	Large Quantity Generator, Eastern
Leah Shannon (Alternate)	Hazardous Waste Permittee, Large Quantity Generator, Eastern
Sheila Smith (Alternate)	Hazardous Waste Permittee, Large Quantity Generator, Northwest

## Meeting notifications

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

- Notified 23,744 people about the Advisory Committee's activities by:
  - Sending GovDelivery bulletins, a free email subscription service, to 13,347 recipients to the following lists:
  - Hazardous Waste - 3,009
  - Hazardous Waste Training - 6,599
  - Toxics Use and Hazardous Waste Reduction Program - 2,783
  - Rulemaking - 8,316
  - DEQ Public Notices - 3,037

## Committee discussions

In addition to the recommendations described in the Statement of Fiscal and Economic Impact section of this document, the committee provided input and discussion on the proposed draft rules. Agendas, meeting summaries and presentation slides are available on the committee's webpage at: [Hazardous Waste Fees 2019 Rulemaking](#).

## Public Engagement

To notify people about the proposed rulemaking and Jan. 17, 2019 rulemaking hearing, DEQ:

- Filed notice with the Oregon Secretary of State on Dec. 14, 2018, for publication in the January 2019 Oregon Bulletin
- Notified Region 10 EPA by email
- Posted the Notice, Invitation to Comment and Draft Rules on the [webpage](#) for this rulemaking
- Emailed 23,744 interested parties on the following DEQ lists through GovDelivery:
  - Hazardous Waste - 3,009
  - Hazardous Waste Training - 6,599
  - Toxics Use and Hazardous Waste Reduction Program - 2,783
  - Rulemaking - 8,316
  - DEQ Public Notices - 3,037
- Emailed 1,014 hazardous waste generator reporters for the last three years in DEQ's reporting database
- Emailed the following key legislators, required under ORS 183.335:
  - Senator Michael Dembrow, chair, Senate Interim Committee on Environment and Natural Resources
  - Senator Alan Olsen, vice-chair, Senate Interim Committee on Environment and Natural Resources

- Representative Ken Helm, chair, House Interim Committee on Energy and Environment
- Representative Karin Power, vice-chair, House Interim Committee on Energy and Environment
- Emailed Advisory Committee members
- Added announcements to the [DEQ public calendar](#)
- Provided notice of public meetings and links to information through postings on Twitter and Facebook

## Public Hearing

DEQ held one public hearing, and received no comments at the hearing nor during the public comment period.

### Presiding Officers' Record

#### Hearing

Date	Jan. 17, 2019
Place	Oregon DEQ 700 NE Multnomah St., Suite 600 Portland, OR 97232-1400
Start Time	6 p.m.
Ending Time	8:01 p.m.
Presiding Officer	Mary Fritzmann

The presiding officer convened the hearing, summarized procedures for the hearing and explained that DEQ was recording. She 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 presiding 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 presiding officer summarized the content of the rulemaking notice. Two people attended the hearing in person and one person attended by teleconference or webinar. No person presented any oral testimony or written comments.

# Summary of Public Comments and DEQ Responses

## Public comment period

DEQ accepted public comment on the proposed rulemaking from Dec. 14, 2018, until 4 p.m. on Tuesday, Jan. 22, 2019.

DEQ did not receive public comment or testimony on the proposed rules, and did not make changes in response to comments.

## Implementation

### Notification

The proposed rules, if approved by the commission, would be filed with the Secretary of State and effective July 19, 2019.

DEQ would notify affected parties by:

- Notifying Region 10 EPA by email
- Posting the announcement on the [Hazardous Waste Fees 2019 Rulemaking](#) webpage for this rulemaking, as well as on the [Hazardous Waste Reporting](#) and [Oregon Hazardous Waste Rules](#) webpages
- Emailing 23,744 interested parties on the following DEQ lists through GovDelivery:
  - Hazardous Waste - 3,009
  - Hazardous Waste Training - 6,599
  - Toxics Use and Hazardous Waste Reduction Program - 2,783
  - Rulemaking - 8,316
  - DEQ Public Notices - 3,037
- Emailing Advisory Committee members
- Adding announcement to the [DEQ public calendar](#)
- Providing notice and links to information through postings on Twitter and Facebook

### Compliance, enforcement and reporting

- Affected parties: Notify by email 1,014 hazardous waste generator reporters for last three years in DEQ's reporting database;
- DEQ staff: Email hazardous waste staff

## **Systems**

- Website: Post fees fact sheet on DEQ's program websites
- Database: Amend database for new fees
- Invoicing: Send invoices to hazardous waste reporters with new fees

## **Training**

- Affected parties: Make information available through webinar trainings
- DEQ staff: Train staff and make the information readily available

# **Five-year review – ORS 183.405**

## **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 existing rules. ORS 183.405(4).

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Division 102 STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

#### 340-102-0065 Hazardous Waste Generator Fees

[Note: Summary of changes: Amends fees for generators.]

(1)(a) A person must pay an annual hazardous waste generation fee if that person:

(A) Generates more than 100 kilograms (220 pounds) of hazardous waste in any calendar month, or

(B) Generates more than 1 kilogram (2.2 pounds) of acutely hazardous waste in any calendar month, or

(C) Accumulates more than 1,000 kilograms (2,200 pounds) of hazardous waste at any time in a calendar year.

(b) The Department will assess fees annually for hazardous waste management activities conducted in the previous year.

(2)(a) The Department will assess a late charge equal to ten percent of the fee due if the Department does not receive the fees by the due date on the invoice.

(b) The Department will assess an additional late charge of ten percent of the unpaid amount for each 30 days that the invoice remains unpaid.

(c) The Department will not assess any additional late charges ~~After 90 days, no further Department late charges shall be assessed;~~ hHowever, the Department may take whatever action it determines necessary to collect the outstanding amount. This may include, but is not limited to, referring such invoices ~~may be referred~~ to the Department of Revenue for collection or collecting ed in Small Claims Court. The Department will increase ~~A~~accounts referred to the Department of Revenue for collection or collected in Small Claims Court ~~shall be increased~~ by 20 percent of the unpaid amount or \$100, whichever is greater, to recover a portion of the costs for referral or collection.

(3)(a) ORS 466.165 sets the base hazardous waste generation fee.

(b) In order to determine annual hazardous waste generation fees, the Department may use generator reports required by OAR 340-102-0041, facility reports required by OAR



340-104-0075, information derived from manifests required by 40 C.F.R. Section 262.20, and any other relevant information.

(c) Unless density information is reported, the Department will use the following conversion factors: one metric ton = 1,000 kilograms = 2,205 pounds = 1.10 short tons = 1.31 cubic yards = 264.23 gallons = 4.80 drums (55 gallon).

(de) The Department will calculate each person's hazardous waste generation fee by multiplying the base fee by the weight of each hazardous waste stream and by the fee factors listed below in Table 1 for the management method the person reports in the annual generation report (OAR 340-102-0041), as follows:

<u>OAR 340-102-0065</u>							
<u>Table 1</u>							
<u>Management Method Fee Factor</u>							
<u>Rule</u>	<u>Description</u>	<u>Calendar Year</u>					
		<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024 &amp; After</u>
<u>(A)</u>	<u>Metals Recovery (for Reuse)</u>	<u>0.56</u>	<u>0.66</u>	<u>0.69</u>	<u>0.74</u>	<u>0.80</u>	<u>0.85</u>
<u>(B)</u>	<u>Solvents Recovery</u>	<u>0.56</u>	<u>0.66</u>	<u>0.69</u>	<u>0.74</u>	<u>0.80</u>	<u>0.85</u>
<u>(C)</u>	<u>Other Recovery</u>	<u>0.56</u>	<u>0.66</u>	<u>0.69</u>	<u>0.74</u>	<u>0.80</u>	<u>0.85</u>
<u>(D)</u>	<u>Hazardous wastewater that is not managed immediately upon generation only in on-site elementary neutralization (ENU) or waste water treatment unit(s) (WWTU)</u>	<u>0.56</u>	<u>0.66</u>	<u>0.69</u>	<u>0.74</u>	<u>0.80</u>	<u>0.85</u>
<u>(E)</u>	<u>Incineration</u>	<u>1.12</u>	<u>1.31</u>	<u>1.38</u>	<u>1.49</u>	<u>1.59</u>	<u>1.70</u>
<u>(F)</u>	<u>Energy Recovery (Reuse as Fuel)</u>	<u>0.84</u>	<u>0.98</u>	<u>1.03</u>	<u>1.11</u>	<u>1.19</u>	<u>1.28</u>
<u>(G)</u>	<u>Fuel Blending</u>	<u>0.84</u>	<u>0.98</u>	<u>1.03</u>	<u>1.11</u>	<u>1.19</u>	<u>1.28</u>
<u>(H)</u>	<u>Aqueous Inorganic Treatment</u>	<u>1.12</u>	<u>1.31</u>	<u>1.38</u>	<u>1.49</u>	<u>1.59</u>	<u>1.70</u>
<u>(I)</u>	<u>Aqueous Organic Treatment</u>	<u>1.12</u>	<u>1.31</u>	<u>1.38</u>	<u>1.49</u>	<u>1.59</u>	<u>1.70</u>
<u>(J)</u>	<u>Aqueous Organic and Inorganic Treatment (Combined)</u>	<u>1.12</u>	<u>1.31</u>	<u>1.38</u>	<u>1.49</u>	<u>1.59</u>	<u>1.70</u>
<u>(K)</u>	<u>Sludge Treatment</u>	<u>1.12</u>	<u>1.31</u>	<u>1.38</u>	<u>1.49</u>	<u>1.59</u>	<u>1.70</u>
<u>(L)</u>	<u>Other Treatment</u>	<u>1.12</u>	<u>1.31</u>	<u>1.38</u>	<u>1.49</u>	<u>1.59</u>	<u>1.70</u>
<u>(M)</u>	<u>Stabilization</u>	<u>1.12</u>	<u>1.31</u>	<u>1.38</u>	<u>1.49</u>	<u>1.59</u>	<u>1.70</u>
<u>(N)</u>	<u>Neutralization (Offsite)</u>	<u>0.84</u>	<u>0.98</u>	<u>1.03</u>	<u>1.11</u>	<u>1.19</u>	<u>1.28</u>
<u>(O)</u>	<u>Land Disposal</u>	<u>1.68</u>	<u>1.97</u>	<u>2.06</u>	<u>2.23</u>	<u>2.39</u>	<u>2.55</u>

(P)	<u>Management method unknown or not reported</u>	<u>2.24</u>	<u>2.62</u>	<u>2.75</u>	<u>2.97</u>	<u>3.18</u>	<u>3.40</u>
(Q)	<u>RCRA-Exempt Management Elementary Neutralization Unit(s) on-site (Includes only corrosive characteristic hazardous waste that is managed immediately upon generation only in an on-site elementary neutralization unit(s))</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
(R)	<u>Permitted Discharge under Clean Water Act Section 402 or 307b (Includes only hazardous wastewater that is managed immediately upon generation only in an on-site wastewater treatment unit(s))</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
(S)	<u>Grant-funded environmental cleanup of a Brownfield or orphaned industrial property involving hazardous waste residues for off-site treatment and/or landfill disposal</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>

- ~~(A) Management Method — Fee Factor;~~
- ~~(B) Metals Recovery (For Reuse) — 0.50;~~
- ~~(C) Solvents Recovery — 0.50;~~
- ~~(D) Other Recovery — 0.50;~~
- ~~(E) Hazardous wastewater that is not managed immediately upon generation only in on-site elementary neutralization unit(s) (ENU) or wastewater treatment unit(s) (WWTU) — 0.50;~~
- ~~(F) Incineration — 1.00;~~
- ~~(G) Energy Recovery (Reuse as Fuel) — 0.75;~~
- ~~(H) Fuel Blending — 0.75;~~
- ~~(I) Aqueous Inorganic Treatment — 1.00;~~
- ~~(J) Aqueous Organic Treatment — 1.00;~~
- ~~(K) Aqueous Organic and Inorganic Treatment (Combined) — 1.00;~~
- ~~(L) Sludge Treatment — 1.00;~~
- ~~(M) Other Treatment — 1.00;~~
- ~~(N) Stabilization — 1.00;~~
- ~~(O) Neutralization (offsite) — 0.75;~~
- ~~(P) Land Disposal — 1.50;~~
- ~~(Q) Management method unknown or not reported — 2.00;~~
- ~~(R) RCRA-Exempt Management Elementary Neutralization Unit(s) on-site (Includes only corrosive characteristic hazardous waste that is managed immediately upon generation only in an on-site elementary neutralization unit(s)) — 0.00;~~

~~(S) Permitted Discharge under Clean Water Act Section 402 or 307b (Includes only hazardous wastewater that is managed immediately upon generation only in an on-site wastewater treatment unit(s)) — 0.00.~~

~~(4) Effective January 1, 1997, in addition to the annual hazardous waste generation fee, each hazardous waste generator shall be subject to an annual hazardous waste activity verification fee, upon billing by the Department, as follows: As of July 19, 2019, and January 1 every year after that date, each hazardous waste generator, as defined in subsection 1(a), must pay an annual hazardous waste activity verification fee. This fee is in addition to the annual hazardous waste generation fee. Table 2 sets the amount of the fee. The fee is due when the Department bills for that fee.~~

<b>OAR 340-102-0065</b>				
<b>Table 2</b>				
<b>Annual Hazardous Waste Activity Verification Fee</b>				
<u>Rule</u>	<u>Description</u>	<u>Calendar Year</u> <u>2019</u>	<u>Calendar Year</u> <u>2020</u>	<u>Calendar Year</u> <u>2021 &amp; After</u>
<u>(a)</u>	<u>Large Quantity Generator</u>	<u>\$656</u>	<u>\$788</u>	<u>\$945</u>
<u>(b)</u>	<u>Small Quantity Generator</u>	<u>\$375</u>	<u>\$450</u>	<u>\$540</u>
<u>(c)</u>	<u>Conditionally Exempt Small Quantity Generator</u>	<u>No Fee</u>	<u>No Fee</u>	<u>No Fee</u>

~~(a) Large Quantity Generator: \$525;  
 (b) Small Quantity Generator: \$300;  
 (c) Conditionally Exempt Small Quantity Generator: No Fee.~~

**Statutory/Other Authority:** ORS 466.165 & 468.020

**Statutes/Other Implemented:** ORS 466.165

**History:**

- DEQ 5-2015, f. & cert. ef. 4-15-15
- DEQ 2-2009, f. & cert. ef. 6-25-09
- DEQ 8-2005, f. & cert. ef. 7-14-05
- DEQ 11-1998, f. & cert. ef. 6-26-98
- DEQ 14-1997, f. & cert. ef. 7-23-97
- DEQ 2-1994, f. & cert. ef. 2-2-94
- DEQ 11-1992, f. & cert. ef. 6-9-92
- DEQ 13-1991, f. & cert. ef. 8-5-91
- DEQ 33-1989, f. & cert. ef. 12-14-89
- DEQ 19-1989(Temp), f. & cert. ef. 7-31-89 (and corrected 8-3-89)
- DEQ 11-1988, f. & cert. ef. 5-19-88
- DEQ 14-1987, f. & ef. 7-28-87
- DEQ 8-1985, f. & ef. 7-25-85

**Division 105  
MANAGEMENT FACILITY PERMITS**

**340-105-0113  
Fee Schedules**

[Note: Summary of changes: Amends fees and adds new fee for permittees.]

(1) Management Facility Annual Compliance Determination Fee: ~~(1)~~

(a) Each permitted or interim status Hazardous Waste Management Facility subject to 40 C.F.R. Sections 264, 265, 270 and OAR 340, with an active operating hazardous waste management unit(s), a hazardous waste management unit(s) undergoing closure (including any required closure certification), or a hazardous waste management unit(s) in post-closure, must pay ~~is subject to~~ the Annual Compliance Determination Fee(s) set forth in section (3).

(b) In calculating the Annual Compliance Determination Fee, the Department shall not include ~~For a facility that has~~ an inactive unit, or units, in post-closure, with a release or releases subject to corrective action, ~~the Department shall not include such units in calculating the Annual Compliance Determination Fee.~~

(c) Where a facility has unit(s) ~~that~~which become subject to corrective action cost recovery, the Department shall prorate the Annual Compliance Determination Fee for that year ~~shall be prorated based upon~~ the period before ~~prior to implementation of~~ corrective action cost recovery is implemented.

(2) Where more than one hazardous waste management activity takes place at a single facility, the Department will assess all- of the applicable category Annual Compliance Determination Fees in 340-105-0113(3) ~~will be assessed~~.

(3) Annual Compliance Determination Fees:

(a) Storage — ~~\$1824,500~~\$750.

(b) Treatment:

(A) Single Technology — ~~\$3749,500~~\$500.

(B) Multiple Technology — ~~\$7598,050~~00.

(c) Disposal Facility:

(A) Single Disposal Unit — ~~\$7598,500~~00.

(B) Multiple Disposal Units — ~~\$150196,500~~00.

(d) Post-Closure Facility — ~~\$1824,500~~750.

(e) Permitted Operating Hazardous Waste Disposal Administrative Fee: In addition to the fee assessed under paragraph (c) of this section, the Department will assess operating permitted disposal facilities an annual administrative fee of \$5.50 per metric ton of waste disposed into a permitted Subtitle C land disposal unit. A facility subject to this fee may elect to pay on a monthly or quarterly basis.

~~(4) Permit Modification Fee: Upon discussion with the permittee to determine the appropriate permit modification classification, the Department will assess the applicant shall be assessed for any permit modification, excluding modifications related to corrective action, as follows:~~

(a) Each Class 1 Permit Modifications:

~~(A) Class 1 Low Workload: \$425.~~

~~(B) Class 1 Medium Workload: \$1,500.~~

~~(C) Class 1 High Workloads: \$24,8500.~~

(b) Class 2 Permit Modifications:

(A) The permittee must~~shall~~ submit a separate permit modification request for each unrelated category of Class 2 permit change in 40 C.F.R. Section 270.42, Appendix 1.

~~(A) Class 2 Permit Modifications with Low Workload: \$5,000.~~

~~(B) Each Class 2 Permit Modifications with Medium Workload or Many Changes: \$10,000.~~

~~(C) Class 2 Permit Modifications with High Workload: \$3120,0800.~~

~~(D) Class 2 Permit Modification to be processed as Class 3 pursuant to 40 CFR 270.42(b)(6): \$31,000.~~

(c) Each Class 3 Permit Modifications:

~~(A) Class 3 Permit Modifications with Low Workload: \$7,500.~~

~~(B) Class 3 Permit Modifications with Medium Workload or Many Changes: \$15,000.~~

~~(C) Class 3 Permit Modifications with High Workload: \$4931,3000.~~

~~(B) Class 2 Permit Modifications with Medium Workload or Many Changes: \$10,000.~~

(d) If the permittee withdraws any permit modification request, the Department shall refund 50% of the balance of the fee if paid in full, if the Department has done less than 50% of work to complete processing ~~of the action~~ ~~has been done~~.

(e) The Department shall also assess ~~P~~ permittees ~~shall also be assessed~~ fees under this section for agency-initiated, legally required modifications.

(5) Hazardous Waste RCRA Exemption Fee:

(a) The Department will assess ~~E~~ each person(s) requesting the following activities ~~shall be assessed~~ a standard fee ~~in the amount~~ of \$30,000:

(A) Hazardous waste delisting or declassification ~~under~~ ~~pursuant to~~ 40 C.F.R. Part 260 and ORS 466.015.

(B) A variance from treatability or from the definition of hazardous waste or solid waste.

(C) A petition for universal waste listing.

(b) Within 60 days after receiving ~~of receipt of~~ a request for a hazardous waste delisting and declassification, variance from treatability or from the definition of hazardous waste or solid waste, or hazardous waste petition for a universal waste listing, the Department may determine that the nature of the request, including the complexity of the proposed action and the factors required to be met for the request to be processed, indicate that a higher fee would be required. If the Department makes such a determination, the Department ~~shall~~ will require the requestor to pay ~~payment of~~ a higher fee, but not to exceed an additional \$100,000. The Department ~~shall~~ will notify the person requesting the exemption that an additional fee is required. Upon receiving ~~receipt of~~ such a notification, the person may discuss with the Department the amount of the fee and the scope of the Department's regulatory activities associated with investigating and processing the request. The person may withdraw the request or petition and be eligible for a refund of fees paid as described in paragraph (c) of this section.

(c) If the person requesting the exemption withdraws a request for a hazardous waste delisting and declassification, variance from treatability, or from the definition of hazardous waste or solid waste, or hazardous waste petition for universal waste listing, the Department shall refund fees paid depending upon the timing of the withdrawal:

(A) If the person withdraws the request or petition ~~is withdrawn~~ ~~before~~ ~~prior to~~ or within 30 days of notification, the Department will estimate the effort to date and refund any excess fee balance.

(B) If the person withdraws the request or petition ~~is withdrawn~~ more than 30 days after notification that an additional fee is required, the Department will refund 50% of the balance of the fee paid, if the Department has done less than 50% of the work to complete ~~the processing~~ ~~of the requested action~~ ~~has been done~~.

~~[ED. NOTE: Appendices referenced are available from the agency.]~~

[\[NOTE: View a PDF of 40 C.F.R. §270.42, Appendix I, by clicking on “Tables” link below.\]](#)

**Statutory/Other Authority:** ORS 466.020, [466.045](#), 466.075, 466.165, 466.195 & 468.020

**Statutes/Other Implemented:** ORS 466.045 & 466.165

**History:**

DEQ 11-1998, f. & cert. ef. 6-26-98

DEQ 14-1997, f. & cert. ef. 7-23-97

DEQ 13-1991, f. & cert. ef. 8-5-91

DEQ 33-1989, f. & cert. ef. 12-14-89

DEQ 19-1989(Temp), f. & cert. ef. 7-31-89 (and corrected 8-3-89)

DEQ 11-1988, f. & cert. ef. 5-19-88

DEQ 14-1987, f. & ef. 7-28-87

DEQ 22-1986, f. & ef. 12-19-86

DEQ 8-1985, f. & ef. 7-25-85



# OAR 340-105-0113

## Attachments



**Code of Federal Regulations**

**Title 40 - Protection of Environment**

Volume: 29 Date: 2018-07-01 Original Date: 2018-07-01 Title: Section Â§ 270.42 - Permit modification at the request of the permittee. Context: Title 40 - Protection of Environment. CHAPTER I - ENVIRONMENTAL PROTECTION AGENCY (CONTINUED). SUBCHAPTER I - SOLID WASTES (CONTINUED). PART 270 - EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM. Subpart D - Changes to Permit.

Appendix I to § 270.42—Classification of Permit Modification

<b>Modifications</b>	<b>Class</b>
<i>A. General Permit Provisions</i>	
1. Administrative and informational changes	1
2. Correction of typographical errors	1
3. Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls)	1
4. Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:	
a. To provide for more frequent monitoring, reporting, sampling, or maintenance	1
b. Other changes	2
5. Schedule of compliance:	
a. Changes in interim compliance dates, with prior approval of the Director	1 1
b. Extension of final compliance date	3
6. Changes in expiration date of permit to allow earlier permit termination, with prior approval of the Director	1 1
7. Changes in ownership or operational control of a facility, provided the procedures of § 270.40(b) are followed	1 1
8. Changes to remove permit conditions that are no longer applicable ( <i>i.e.</i> , because the standards upon which they are based are no longer applicable to the facility).	1 1
9. Changes to remove permit conditions applicable to a unit excluded under the provisions of § 261.4.	1 1
10. Changes in the expiration date of a permit issued to a facility at which all units are excluded under the provisions of § 261.4.	1 1
<i>B. General Facility Standards</i>	
1. Changes to waste sampling or analysis methods:	

a. To conform with agency guidance or regulations	1
b. To incorporate changes associated with F039 (multi-source leachate) sampling or analysis methods	1
c. To incorporate changes associated with underlying hazardous constituents in ignitable or corrosive wastes	1 1
d. Other changes	2
2. Changes to analytical quality assurance/control plan:	
a. To conform with agency guidance or regulations	1
b. Other changes	2
3. Changes in procedures for maintaining the operating record	1
4. Changes in frequency or content of inspection schedules	2
5. Changes in the training plan:	
a. That affect the type or decrease the amount of training given to employees	2
b. Other changes	1
6. Contingency plan:	
a. Changes in emergency procedures ( <i>i.e.</i> , spill or release response procedures)	2
b. Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed	1
c. Removal of equipment from emergency equipment list	2
d. Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan	1
7. Construction quality assurance plan:	
a. Changes that the CQA officer certifies in the operating record will provide equivalent or better certainty that the unit components meet the design specifications	1
b. Other changes	2
<b>Note:</b> When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change shall be reviewed under the same procedures as the permit modification.	
<i>C. Ground-Water Protection</i>	
1. Changes to wells:	
a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted ground-water monitoring system	2

b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well	1
2. Changes in ground-water sampling or analysis procedures or monitoring schedule, with prior approval of the Director	1 1
3. Changes in statistical procedure for determining whether a statistically significant change in ground-water quality between upgradient and downgradient wells has occurred, with prior approval of the Director	1 1
4. Changes in point of compliance	2
5. Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs):	
a. As specified in the groundwater protection standard	3
b. As specified in the detection monitoring program	2
6. Changes to a detection monitoring program as required by § 264.98(h), unless otherwise specified in this appendix	2
7. Compliance monitoring program:	
a. Addition of compliance monitoring program as required by §§ 264.98(g)(4) and 264.99	3
b. Changes to a compliance monitoring program as required by § 264.99(j), unless otherwise specified in this appendix	2
8. Corrective action program:	
a. Addition of a corrective action program as required by §§ 264.99(h)(2) and 264.100	3
b. Changes to a corrective action program as required by § 264.100(h), unless otherwise specified in this appendix	2
D. <i>Closure</i>	
1. Changes to the closure plan:	
a. Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the Director	1 1
b. Changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the closure period, with prior approval of the Director	1 1
c. Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the Director	1 1
d. Changes in procedures for decontamination of facility equipment or structures, with prior approval of the Director	1 1

e. Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this appendix	2
f. Extension of the closure period to allow a landfill, surface impoundment or land treatment unit to receive non-hazardous wastes after final receipt of hazardous wastes under § 264.113 (d) and (e)	2
2. Creation of a new landfill unit as part of closure	3
3. Addition of the following new units to be used temporarily for closure activities:	
a. Surface impoundments	3
b. Incinerators	3
c. Waste piles that do not comply with § 264.250(c)	3
d. Waste piles that comply with § 264.250(c)	2
e. Tanks or containers (other than specified below)	2
f. Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the Director	1 1
g. Staging piles	2
<i>E. Post-Closure</i>	
1. Changes in name, address, or phone number of contact in post-closure plan	1
2. Extension of post-closure care period	2
3. Reduction in the post-closure care period	3
4. Changes to the expected year of final closure, where other permit conditions are not changed	1
5. Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure	2
<i>F. Containers</i>	
1. Modification or addition of container units:	
a. Resulting in greater than 25% increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a) below	3
b. Resulting in up to 25% increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a) below	2
c. Or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of “use of practically available technology that yields the greatest environmental benefit” contained in § 268.8(a)(2)(ii), with prior approval of the	1 1

Director. This modification may also involve addition of new waste codes or narrative descriptions of wastes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	
2.	
a. Modification of a container unit without increasing the capacity of the unit	2
b. Addition of a roof to a container unit without alteration of the containment system	1
3. Storage of different wastes in containers, except as provided in (F)(4) below:	
a. That require additional or different management practices from those authorized in the permit	3
b. That do not require additional or different management practices from those authorized in the permit	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	
4. Storage or treatment of different wastes in containers:	
a. That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards, or that are to be treated to satisfy (in whole or in part) the standard of “use of practically available technology that yields the greatest environmental benefit” contained in § 268.8(a)(2)(ii). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1 1
b. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1 1
<i>G. Tanks</i>	
1.	
a. Modification or addition of tank units resulting in greater than 25% increase in the facility's tank capacity, except as provided in G(1)(c), G(1)(d), and G(1)(e) below	3
b. Modification or addition of tank units resulting in up to 25% increase in the facility's tank capacity, except as provided in G(1)(d) and G(1)(e) below	2
c. Addition of a new tank that will operate for more than 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation	2

d. After prior approval of the Director, addition of a new tank that will operate for up to 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation	1 1
e. Modification or addition of tank units or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of “use of practically available technology that yields the greatest environmental benefit” contained in § 268.8(a)(2)(ii), with prior approval of the Director. This modification may also involve addition of new waste codes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1 1
2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit	2
3. Replacement of a tank with a tank that meets the same design standards and has a capacity within ±10% of the replaced tank provided	1
—The capacity difference is no more than 1500 gallons,	
—The facility's permitted tank capacity is not increased, and	
—The replacement tank meets the same conditions in the permit.	
4. Modification of a tank management practice	2
5. Management of different wastes in tanks:	
a. That require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process from that authorized in the permit, except as provided in (G)(5)(c) below	3
b. That do not require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process than authorized in the permit, except as provided in (G)(5)(d)	2
c. That require addition of units or change in treatment processes or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards or that are to be treated to satisfy (in whole or in part) the standard of “use of practically available technology that yields the greatest environmental benefit” contained in § 268.8(a)(2)(ii). The modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1 1
d. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	

<i>H. Surface Impoundments</i>	
1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity	3
2. Replacement of a surface impoundment unit	3
3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system	2
4. Modification of a surface impoundment management practice	2
5. Treatment, storage, or disposal of different wastes in surface impoundments:	
a. That require additional or different management practices or different design of the liner or leak detection system than authorized in the permit	3
b. That do not require additional or different management practices or different design of the liner or leak detection system than authorized in the permit	2
c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in § 269.8(a)(2)(ii), and provided that the unit meets the minimum technological requirements stated in § 268.5(h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a unit that meets the minimum technological requirements stated in § 268.5(h)(2), and provided further that the surface impoundment has previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
6. Modifications of unconstructed units to comply with §§ 264.221(c), 264.222, 264.223, and 264.226(d)	1 1
7. Changes in response action plan:	
a. Increase in action leakage rate	3
b. Change in a specific response reducing its frequency or effectiveness	3
c. Other changes	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes	
<i>I. Enclosed Waste Piles.</i> For all waste piles except those complying with § 264.250(c), modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with § 264.250(c).	

1. Modification or addition of waste pile units:	
a. Resulting in greater than 25% increase in the facility's waste pile storage or treatment capacity	3
b. Resulting in up to 25% increase in the facility's waste pile storage or treatment capacity	2
2. Modification of waste pile unit without increasing the capacity of the unit	2
3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit	1
4. Modification of a waste pile management practice	2
5. Storage or treatment of different wastes in waste piles:	
a. That require additional or different management practices or different design of the unit	3
b. That do not require additional or different management practices or different design of the unit	2
6. Conversion of an enclosed waste pile to a containment building unit	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	
<i>J. Landfills and Unenclosed Waste Piles</i>	
1. Modification or addition of landfill units that result in increasing the facility's disposal capacity	3
2. Replacement of a landfill	3
3. Addition or modification of a liner, leachate collection system, leachate detection system, run-off control, or final cover system	3
4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control, or final cover system	2
5. Modification of a landfill management practice	2
6. Landfill different wastes:	
a. That require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system	3
b. That do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system	2
c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in § 268.8(a)(2)(ii),	1



and provided that the landfill unit meets the minimum technological requirements stated in § 268.5(h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	
d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a landfill unit that meets the minimum technological requirements stated in § 268.5(h)(2), and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
7. Modifications of unconstructed units to comply with §§ 264.251(c), 264.252, 264.253, 264.254(c), 264.301(c), 264.302, 264.303(c), and 264.304	1 1
8. Changes in response action plan:	
a. Increase in action leakage rate	3
b. Change in a specific response reducing its frequency or effectiveness	3
c. Other changes	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	
<i>K. Land Treatment</i>	
1. Lateral expansion of or other modification of a land treatment unit to increase areal extent	3
2. Modification of run-on control system	2
3. Modify run-off control system	3
4. Other modifications of land treatment unit component specifications or standards required in permit	2
5. Management of different wastes in land treatment units:	
a. That require a change in permit operating conditions or unit design specifications	3
b. That do not require a change in permit operating conditions or unit design specifications	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes	
6. Modification of a land treatment unit management practice to:	
a. Increase rate or change method of waste application	3
b. Decrease rate of waste application	1
7. Modification of a land treatment unit management practice to change measures of pH or moisture content, or to enhance microbial or chemical reactions	2

8. Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops, or to modify operating plans for distribution of animal feeds resulting from such crops	3
9. Modification of operating practice due to detection of releases from the land treatment unit pursuant to § 264.278(g)(2)	3
10. Changes in the unsaturated zone monitoring system, resulting in a change to the location, depth, number of sampling points, or replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements	3
11. Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, number of sampling points, or that replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements	2
12. Changes in background values for hazardous constituents in soil and soil-pore liquid	2
13. Changes in sampling, analysis, or statistical procedure	2
14. Changes in land treatment demonstration program prior to or during the demonstration	2
15. Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the Director's prior approval has been received	1 1
16. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the Director	1 1
17. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration	3
18. Changes in vegetative cover requirements for closure	2
L. Incinerators, Boilers, and Industrial Furnaces:	
1. Changes to increase by more than 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
2. Changes to increase by up to 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed	2

rate limit, a metal feed rate limit, or an ash feed rate limit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	
3. Modification of an incinerator, boiler, or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove HCl/Cl <sub>2</sub> , metals, or particulate from the combustion gases, or by changing other features of the incinerator, boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
4. Modification of an incinerator, boiler, or industrial furnace unit in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions or monitoring requirements specified in the permit. The Director may require a new trial burn to demonstrate compliance with the regulatory performance standards	2
5. Operating requirements:	
a. Modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, oxygen concentration in the secondary combustion chamber, flue gas carbon monoxide and hydrocarbon concentration, maximum temperature at the inlet to the particulate matter emission control system, or operating parameters for the air pollution control system. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
b. Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls	3
c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit	2
6. Burning different wastes:	
a. If the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
b. If the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes	

7. Shakedown and trial burn:	
a. Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period, or the period immediately following the trial burn	2
b. Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the Director	11
c. Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the Director	11
d. Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the Director	11
8. Substitution of an alternative type of nonhazardous waste fuel that is not specified in the permit	1
9. Technology changes needed to meet standards under 40 CFR part 63 (Subpart EEE—National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors), provided the procedures of § 270.42(j) are followed.	1 1
10. Changes to RCRA permit provisions needed to support transition to 40 CFR part 63 (Subpart EEE—National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors), provided the procedures of § 270.42(k) are followed.	
M. Containment Buildings.	
1. Modification or addition of containment building units:	
a. Resulting in greater than 25% increase in the facility's containment building storage or treatment capacity	3
b. Resulting in up to 25% increase in the facility's containment building storage or treatment capacity	2
2. Modification of a containment building unit or secondary containment system without increasing the capacity of the unit	2
3. Replacement of a containment building with a containment building that meets the same design standards provided:	
a. The unit capacity is not increased	1
b. The replacement containment building meets the same conditions in the permit	1
4. Modification of a containment building management practice	2
5. Storage or treatment of different wastes in containment buildings:	
a. That require additional or different management practices	3

b. That do not require additional or different management practices	2
N. Corrective Action:	
1. Approval of a corrective action management unit pursuant to § 264.552	3
2. Approval of a temporary unit or time extension for a temporary unit pursuant to § 264.553	2
3. Approval of a staging pile or staging pile operating term extension pursuant to § 264.554	2
O. Burden Reduction	
1. [Reserved]	
2. Development of one contingency plan based on Integrated Contingency Plan Guidance pursuant to § 264.52(b)	1
3. Changes to recordkeeping and reporting requirements pursuant to: §§ 264.56(i), 264.343(a)(2), 264.1061(b)(1),(d), 264.1062(a)(2), 264.196(f), 264.100(g), and 264.113(e)(5)	1
4. Changes to inspection frequency for tank systems pursuant to § 264.195(b)	1
5. Changes to detection and compliance monitoring program pursuant to §§ 264.98(d), (g)(2), and (g)(3), 264.99(f), and (g)	1

1 Class 1 modifications requiring prior Agency approval.

[53 FR 37936, Sept. 28, 1988]



State of Oregon Department of Environmental Quality

**OAR 340-105-0113**

**Attachments**

**Code of Federal Regulations**

**Title 40 - Protection of Environment**

Volume: 29 Date: 2018-07-01 Original Date: 2018-07-01 Title: Section Â§ 270.42 - Permit modification at the request of the permittee. Context: Title 40 - Protection of Environment. CHAPTER I - ENVIRONMENTAL PROTECTION AGENCY (CONTINUED). SUBCHAPTER I - SOLID WASTES (CONTINUED). PART 270 - EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM. Subpart D - Changes to Permit.

Appendix I to § 270.42—Classification of Permit Modification

<b>Modifications</b>	<b>Class</b>
<i>A. General Permit Provisions</i>	
1. Administrative and informational changes	1
2. Correction of typographical errors	1
3. Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls)	1
4. Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:	
a. To provide for more frequent monitoring, reporting, sampling, or maintenance	1
b. Other changes	2
5. Schedule of compliance:	
a. Changes in interim compliance dates, with prior approval of the Director	1 1
b. Extension of final compliance date	3
6. Changes in expiration date of permit to allow earlier permit termination, with prior approval of the Director	1 1
7. Changes in ownership or operational control of a facility, provided the procedures of § 270.40(b) are followed	1 1
8. Changes to remove permit conditions that are no longer applicable ( <i>i.e.</i> , because the standards upon which they are based are no longer applicable to the facility).	1 1
9. Changes to remove permit conditions applicable to a unit excluded under the provisions of § 261.4.	1 1
10. Changes in the expiration date of a permit issued to a facility at which all units are excluded under the provisions of § 261.4.	1 1
<i>B. General Facility Standards</i>	
1. Changes to waste sampling or analysis methods:	

a. To conform with agency guidance or regulations	1
b. To incorporate changes associated with F039 (multi-source leachate) sampling or analysis methods	1
c. To incorporate changes associated with underlying hazardous constituents in ignitable or corrosive wastes	1 1
d. Other changes	2
2. Changes to analytical quality assurance/control plan:	
a. To conform with agency guidance or regulations	1
b. Other changes	2
3. Changes in procedures for maintaining the operating record	1
4. Changes in frequency or content of inspection schedules	2
5. Changes in the training plan:	
a. That affect the type or decrease the amount of training given to employees	2
b. Other changes	1
6. Contingency plan:	
a. Changes in emergency procedures ( <i>i.e.</i> , spill or release response procedures)	2
b. Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed	1
c. Removal of equipment from emergency equipment list	2
d. Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan	1
7. Construction quality assurance plan:	
a. Changes that the CQA officer certifies in the operating record will provide equivalent or better certainty that the unit components meet the design specifications	1
b. Other changes	2
<b>Note:</b> When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change shall be reviewed under the same procedures as the permit modification.	
<i>C. Ground-Water Protection</i>	
1. Changes to wells:	
a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted ground-water monitoring system	2



b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well	1
2. Changes in ground-water sampling or analysis procedures or monitoring schedule, with prior approval of the Director	1 1
3. Changes in statistical procedure for determining whether a statistically significant change in ground-water quality between upgradient and downgradient wells has occurred, with prior approval of the Director	1 1
4. Changes in point of compliance	2
5. Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs):	
a. As specified in the groundwater protection standard	3
b. As specified in the detection monitoring program	2
6. Changes to a detection monitoring program as required by § 264.98(h), unless otherwise specified in this appendix	2
7. Compliance monitoring program:	
a. Addition of compliance monitoring program as required by §§ 264.98(g)(4) and 264.99	3
b. Changes to a compliance monitoring program as required by § 264.99(j), unless otherwise specified in this appendix	2
8. Corrective action program:	
a. Addition of a corrective action program as required by §§ 264.99(h)(2) and 264.100	3
b. Changes to a corrective action program as required by § 264.100(h), unless otherwise specified in this appendix	2
D. <i>Closure</i>	
1. Changes to the closure plan:	
a. Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the Director	1 1
b. Changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the closure period, with prior approval of the Director	1 1
c. Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the Director	1 1
d. Changes in procedures for decontamination of facility equipment or structures, with prior approval of the Director	1 1

e. Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this appendix	2
f. Extension of the closure period to allow a landfill, surface impoundment or land treatment unit to receive non-hazardous wastes after final receipt of hazardous wastes under § 264.113 (d) and (e)	2
2. Creation of a new landfill unit as part of closure	3
3. Addition of the following new units to be used temporarily for closure activities:	
a. Surface impoundments	3
b. Incinerators	3
c. Waste piles that do not comply with § 264.250(c)	3
d. Waste piles that comply with § 264.250(c)	2
e. Tanks or containers (other than specified below)	2
f. Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the Director	1 1
g. Staging piles	2
<i>E. Post-Closure</i>	
1. Changes in name, address, or phone number of contact in post-closure plan	1
2. Extension of post-closure care period	2
3. Reduction in the post-closure care period	3
4. Changes to the expected year of final closure, where other permit conditions are not changed	1
5. Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure	2
<i>F. Containers</i>	
1. Modification or addition of container units:	
a. Resulting in greater than 25% increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a) below	3
b. Resulting in up to 25% increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a) below	2
c. Or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of “use of practically available technology that yields the greatest environmental benefit” contained in § 268.8(a)(2)(ii), with prior approval of the	1 1

Director. This modification may also involve addition of new waste codes or narrative descriptions of wastes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	
2.	
a. Modification of a container unit without increasing the capacity of the unit	2
b. Addition of a roof to a container unit without alteration of the containment system	1
3. Storage of different wastes in containers, except as provided in (F)(4) below:	
a. That require additional or different management practices from those authorized in the permit	3
b. That do not require additional or different management practices from those authorized in the permit	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	
4. Storage or treatment of different wastes in containers:	
a. That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards, or that are to be treated to satisfy (in whole or in part) the standard of “use of practically available technology that yields the greatest environmental benefit” contained in § 268.8(a)(2)(ii). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1 1
b. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1 1
<i>G. Tanks</i>	
1.	
a. Modification or addition of tank units resulting in greater than 25% increase in the facility's tank capacity, except as provided in G(1)(c), G(1)(d), and G(1)(e) below	3
b. Modification or addition of tank units resulting in up to 25% increase in the facility's tank capacity, except as provided in G(1)(d) and G(1)(e) below	2
c. Addition of a new tank that will operate for more than 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation	2

d. After prior approval of the Director, addition of a new tank that will operate for up to 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation	1 1
e. Modification or addition of tank units or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of “use of practically available technology that yields the greatest environmental benefit” contained in § 268.8(a)(2)(ii), with prior approval of the Director. This modification may also involve addition of new waste codes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1 1
2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit	2
3. Replacement of a tank with a tank that meets the same design standards and has a capacity within ±10% of the replaced tank provided	1
—The capacity difference is no more than 1500 gallons,	
—The facility's permitted tank capacity is not increased, and	
—The replacement tank meets the same conditions in the permit.	
4. Modification of a tank management practice	2
5. Management of different wastes in tanks:	
a. That require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process from that authorized in the permit, except as provided in (G)(5)(c) below	3
b. That do not require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process than authorized in the permit, except as provided in (G)(5)(d)	2
c. That require addition of units or change in treatment processes or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards or that are to be treated to satisfy (in whole or in part) the standard of “use of practically available technology that yields the greatest environmental benefit” contained in § 268.8(a)(2)(ii). The modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1 1
d. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	

<i>H. Surface Impoundments</i>	
1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity	3
2. Replacement of a surface impoundment unit	3
3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system	2
4. Modification of a surface impoundment management practice	2
5. Treatment, storage, or disposal of different wastes in surface impoundments:	
a. That require additional or different management practices or different design of the liner or leak detection system than authorized in the permit	3
b. That do not require additional or different management practices or different design of the liner or leak detection system than authorized in the permit	2
c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of “use of practically available technology that yields the greatest environmental benefit” contained in § 269.8(a)(2)(ii), and provided that the unit meets the minimum technological requirements stated in § 268.5(h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a unit that meets the minimum technological requirements stated in § 268.5(h)(2), and provided further that the surface impoundment has previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
6. Modifications of unconstructed units to comply with §§ 264.221(c), 264.222, 264.223, and 264.226(d)	1 1
7. Changes in response action plan:	
a. Increase in action leakage rate	3
b. Change in a specific response reducing its frequency or effectiveness	3
c. Other changes	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes	
<i>I. Enclosed Waste Piles.</i> For all waste piles except those complying with § 264.250(c), modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with § 264.250(c).	

1. Modification or addition of waste pile units:	
a. Resulting in greater than 25% increase in the facility's waste pile storage or treatment capacity	3
b. Resulting in up to 25% increase in the facility's waste pile storage or treatment capacity	2
2. Modification of waste pile unit without increasing the capacity of the unit	2
3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit	1
4. Modification of a waste pile management practice	2
5. Storage or treatment of different wastes in waste piles:	
a. That require additional or different management practices or different design of the unit	3
b. That do not require additional or different management practices or different design of the unit	2
6. Conversion of an enclosed waste pile to a containment building unit	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	
<i>J. Landfills and Unenclosed Waste Piles</i>	
1. Modification or addition of landfill units that result in increasing the facility's disposal capacity	3
2. Replacement of a landfill	3
3. Addition or modification of a liner, leachate collection system, leachate detection system, run-off control, or final cover system	3
4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control, or final cover system	2
5. Modification of a landfill management practice	2
6. Landfill different wastes:	
a. That require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system	3
b. That do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system	2
c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of “use of practically available technology that yields the greatest environmental benefit” contained in § 268.8(a)(2)(ii),	1

and provided that the landfill unit meets the minimum technological requirements stated in § 268.5(h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	
d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a landfill unit that meets the minimum technological requirements stated in § 268.5(h)(2), and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
7. Modifications of unconstructed units to comply with §§ 264.251(c), 264.252, 264.253, 264.254(c), 264.301(c), 264.302, 264.303(c), and 264.304	1 1
8. Changes in response action plan:	
a. Increase in action leakage rate	3
b. Change in a specific response reducing its frequency or effectiveness	3
c. Other changes	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	
<i>K. Land Treatment</i>	
1. Lateral expansion of or other modification of a land treatment unit to increase areal extent	3
2. Modification of run-on control system	2
3. Modify run-off control system	3
4. Other modifications of land treatment unit component specifications or standards required in permit	2
5. Management of different wastes in land treatment units:	
a. That require a change in permit operating conditions or unit design specifications	3
b. That do not require a change in permit operating conditions or unit design specifications	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes	
6. Modification of a land treatment unit management practice to:	
a. Increase rate or change method of waste application	3
b. Decrease rate of waste application	1
7. Modification of a land treatment unit management practice to change measures of pH or moisture content, or to enhance microbial or chemical reactions	2

8. Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops, or to modify operating plans for distribution of animal feeds resulting from such crops	3
9. Modification of operating practice due to detection of releases from the land treatment unit pursuant to § 264.278(g)(2)	3
10. Changes in the unsaturated zone monitoring system, resulting in a change to the location, depth, number of sampling points, or replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements	3
11. Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, number of sampling points, or that replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements	2
12. Changes in background values for hazardous constituents in soil and soil-pore liquid	2
13. Changes in sampling, analysis, or statistical procedure	2
14. Changes in land treatment demonstration program prior to or during the demonstration	2
15. Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the Director's prior approval has been received	1 1
16. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the Director	1 1
17. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration	3
18. Changes in vegetative cover requirements for closure	2
L. Incinerators, Boilers, and Industrial Furnaces:	
1. Changes to increase by more than 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
2. Changes to increase by up to 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed	2



rate limit, a metal feed rate limit, or an ash feed rate limit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	
3. Modification of an incinerator, boiler, or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove HCl/Cl <sub>2</sub> , metals, or particulate from the combustion gases, or by changing other features of the incinerator, boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
4. Modification of an incinerator, boiler, or industrial furnace unit in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions or monitoring requirements specified in the permit. The Director may require a new trial burn to demonstrate compliance with the regulatory performance standards	2
5. Operating requirements:	
a. Modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, oxygen concentration in the secondary combustion chamber, flue gas carbon monoxide and hydrocarbon concentration, maximum temperature at the inlet to the particulate matter emission control system, or operating parameters for the air pollution control system. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
b. Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls	3
c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit	2
6. Burning different wastes:	
a. If the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
b. If the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes	

7. Shakedown and trial burn:	
a. Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period, or the period immediately following the trial burn	2
b. Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the Director	11
c. Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the Director	11
d. Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the Director	11
8. Substitution of an alternative type of nonhazardous waste fuel that is not specified in the permit	1
9. Technology changes needed to meet standards under 40 CFR part 63 (Subpart EEE—National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors), provided the procedures of § 270.42(j) are followed.	1 1
10. Changes to RCRA permit provisions needed to support transition to 40 CFR part 63 (Subpart EEE—National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors), provided the procedures of § 270.42(k) are followed.	
M. Containment Buildings.	
1. Modification or addition of containment building units:	
a. Resulting in greater than 25% increase in the facility's containment building storage or treatment capacity	3
b. Resulting in up to 25% increase in the facility's containment building storage or treatment capacity	2
2. Modification of a containment building unit or secondary containment system without increasing the capacity of the unit	2
3. Replacement of a containment building with a containment building that meets the same design standards provided:	
a. The unit capacity is not increased	1
b. The replacement containment building meets the same conditions in the permit	1
4. Modification of a containment building management practice	2
5. Storage or treatment of different wastes in containment buildings:	
a. That require additional or different management practices	3

b. That do not require additional or different management practices	2
N. Corrective Action:	
1. Approval of a corrective action management unit pursuant to § 264.552	3
2. Approval of a temporary unit or time extension for a temporary unit pursuant to § 264.553	2
3. Approval of a staging pile or staging pile operating term extension pursuant to § 264.554	2
O. Burden Reduction	
1. [Reserved]	
2. Development of one contingency plan based on Integrated Contingency Plan Guidance pursuant to § 264.52(b)	1
3. Changes to recordkeeping and reporting requirements pursuant to: §§ 264.56(i), 264.343(a)(2), 264.1061(b)(1),(d), 264.1062(a)(2), 264.196(f), 264.100(g), and 264.113(e)(5)	1
4. Changes to inspection frequency for tank systems pursuant to § 264.195(b)	1
5. Changes to detection and compliance monitoring program pursuant to §§ 264.98(d), (g)(2), and (g)(3), 264.99(f), and (g)	1

1 Class 1 modifications requiring prior Agency approval.

[53 FR 37936, Sept. 28, 1988]

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### Division 102

### STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

#### 340-102-0065

#### Hazardous Waste Generator Fees

[Note: Summary of changes: Amends fees for generators.]

(1)(a) A person must pay an annual hazardous waste generation fee if that person:

(A) Generates more than 100 kilograms (220 pounds) of hazardous waste in any calendar month, or

(B) Generates more than 1 kilogram (2.2 pounds) of acutely hazardous waste in any calendar month, or

(C) Accumulates more than 1,000 kilograms (2,200 pounds) of hazardous waste at any time in a calendar year.

(b) The Department will assess fees annually for hazardous waste management activities conducted in the previous year.

(2)(a) The Department will assess a late charge equal to ten percent of the fee due if the Department does not receive the fees by the due date on the invoice.

(b) The Department will assess an additional late charge of ten percent of the unpaid amount for each 30 days that the invoice remains unpaid.

(c) The Department will not assess any additional late charges after 90 days. However, the Department may take whatever action it determines necessary to collect the outstanding amount. This may include, but is not limited to, referring such invoices to the Department of Revenue for collection or collecting in Small Claims Court. The Department will increase accounts referred to the Department of Revenue for collection or collected in Small Claims Court by 20 percent of the unpaid amount or \$100, whichever is greater, to recover a portion of the costs for referral or collection.

(3)(a) ORS 466.165 sets the base hazardous waste generation fee.

(b) In order to determine annual hazardous waste generation fees, the Department may use generator reports required by OAR 340-102-0041, facility reports required by OAR 340-104-0075, information derived from manifests required by 40 C.F.R. Section 262.20, and any other relevant information.

(c) Unless density information is reported, the Department will use the following conversion factors: one metric ton = 1,000 kilograms = 2,205 pounds = 1.10 short tons = 1.31 cubic yards = 264.23 gallons = 4.80 drums (55 gallon).

(d) The Department will calculate each person's hazardous waste generation fee by multiplying the base fee by the weight of each hazardous waste stream and by the fee factors listed in Table 1 for the management method the person reports in the annual generation report (OAR 340-102-0041).

<b>OAR 340-102-0065</b>							
<b>Table 1</b>							
<b>Management Method Fee Factor</b>							
<b>Rule</b>	<b>Description</b>	<b>Calendar Year</b>					
		<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024 &amp; After</b>
(A)	Metals Recovery (for Reuse)	0.56	0.66	0.69	0.74	0.80	0.85
(B)	Solvents Recovery	0.56	0.66	0.69	0.74	0.80	0.85
(C)	Other Recovery	0.56	0.66	0.69	0.74	0.80	0.85
(D)	Hazardous wastewater that is not managed immediately upon generation only in on-site elementary neutralization (ENU) or waste water treatment unit(s) (WWTU)	0.56	0.66	0.69	0.74	0.80	0.85
(E)	Incineration	1.12	1.31	1.38	1.49	1.59	1.70
(F)	Energy Recovery (Reuse as Fuel)	0.84	0.98	1.03	1.11	1.19	1.28
(G)	Fuel Blending	0.84	0.98	1.03	1.11	1.19	1.28
(H)	Aqueous Inorganic Treatment	1.12	1.31	1.38	1.49	1.59	1.70
(I)	Aqueous Organic Treatment	1.12	1.31	1.38	1.49	1.59	1.70
(J)	Aqueous Organic and Inorganic Treatment (Combined)	1.12	1.31	1.38	1.49	1.59	1.70
(K)	Sludge Treatment	1.12	1.31	1.38	1.49	1.59	1.70
(L)	Other Treatment	1.12	1.31	1.38	1.49	1.59	1.70
(M)	Stabilization	1.12	1.31	1.38	1.49	1.59	1.70
(N)	Neutralization (Offsite)	0.84	0.98	1.03	1.11	1.19	1.28
(O)	Land Disposal	1.68	1.97	2.06	2.23	2.39	2.55
(P)	Management method unknown or not reported	2.24	2.62	2.75	2.97	3.18	3.40

(Q)	RCRA-Exempt Management Elementary Neutralization Unit(s) on-site (Includes only corrosive characteristic hazardous waste that is managed immediately upon generation only in an on-site elementary neutralization unit(s))	0.00	0.00	0.00	0.00	0.00	0.00
(R)	Permitted Discharge under Clean Water Act Section 402 or 307b (Includes only hazardous wastewater that is managed immediately upon generation only in an on-site wastewater treatment unit(s))	0.00	0.00	0.00	0.00	0.00	0.00
(S)	Grant-funded environmental cleanup of a Brownfield or orphaned industrial property involving hazardous waste residues for off-site treatment and/or landfill disposal	0.00	0.00	0.00	0.00	0.00	0.00

(4) As of July 19, 2019, and January 1 every year after that date, each hazardous waste generator, as defined in subsection 1(a), must pay an annual hazardous waste activity verification fee. This fee is in addition to the annual hazardous waste generation fee. Table 2 sets the amount of the fee. The fee is due when the Department bills for that fee.

<b>OAR 340-102-0065</b>				
<b>Table 2</b>				
<b>Annual Hazardous Waste Activity Verification Fee</b>				
<b>Rule</b>	<b>Description</b>	<b>Calendar Year 2019</b>	<b>Calendar Year 2020</b>	<b>Calendar Year 2021 &amp; After</b>
(a)	Large Quantity Generator	\$656	\$788	\$945
(b)	Small Quantity Generator	\$375	\$450	\$540
(c)	Conditionally Exempt Small Quantity Generator	No Fee	No Fee	No Fee

**Statutory/Other Authority:** ORS 466.165 & 468.020

**Statutes/Other Implemented:** ORS 466.165

**History:**

- DEQ 5-2015, f. & cert. ef. 4-15-15
- DEQ 2-2009, f. & cert. ef. 6-25-09
- DEQ 8-2005, f. & cert. ef. 7-14-05
- DEQ 11-1998, f. & cert. ef. 6-26-98
- DEQ 14-1997, f. & cert. ef. 7-23-97
- DEQ 2-1994, f. & cert. ef. 2-2-94

DEQ 11-1992, f. & cert. ef. 6-9-92  
DEQ 13-1991, f. & cert. ef. 8-5-91  
DEQ 33-1989, f. & cert. ef. 12-14-89  
DEQ 19-1989(Temp), f. & cert. ef. 7-31-89 (and corrected 8-3-89)  
DEQ 11-1988, f. & cert. ef. 5-19-88  
DEQ 14-1987, f. & ef. 7-28-87  
DEQ 8-1985, f. & ef. 7-25-85

**Division 105**  
**MANAGEMENT FACILITY PERMITS**

**340-105-0113**  
**Fee Schedules**

[Note: Summary of changes: Amends fees and adds new fee for permittees.]

(1) Management Facility Annual Compliance Determination Fee:

(a) Each permitted or interim status Hazardous Waste Management Facility subject to 40 C.F.R. Sections 264, 265, 270 and OAR 340, with an active operating hazardous waste management unit(s), a hazardous waste management unit(s) undergoing closure (including any required closure certification), or a hazardous waste management unit(s) in post-closure, must pay the Annual Compliance Determination Fee(s) set forth in section (3).

(b) In calculating the Annual Compliance Determination Fee, the Department shall not include an inactive unit, or units, in post-closure, with a release or releases subject to corrective action.

(c) Where a facility has unit(s) that become subject to corrective action cost recovery, the Department shall prorate the Annual Compliance Determination Fee for that year based on the period before corrective action cost recovery is implemented.

(2) Where more than one hazardous waste management activity takes place at a single facility, the Department will assess all of the applicable category Annual Compliance Determination Fees in 340-105-0113(3).

(3) Annual Compliance Determination Fees:

(a) Storage — \$24,500.

(b) Treatment:

(A) Single Technology — \$49,500.

(B) Multiple Technology — \$98,500.

(c) Disposal Facility:

(A) Single Disposal Unit — \$98,500.

(B) Multiple Disposal Units — \$196,500.

(d) Post-Closure Facility — \$24,500.

(e) Permitted Operating Hazardous Waste Disposal Administrative Fee: In addition to the fee assessed under paragraph (c) of this section, the Department will assess operating permitted disposal facilities an annual administrative fee of \$5.50 per metric ton of waste disposed into a permitted Subtitle C land disposal unit. A facility subject to this fee may elect to pay on a monthly or quarterly basis.

(4) Permit Modification Fee: Upon discussion with the permittee to determine the appropriate permit modification classification, the Department will assess the applicant for any permit modification, excluding modifications related to corrective action, as follows:

(a) Each Class 1 Permit Modifications: \$4,500.

(b) Class 2 Permit Modifications:

(A) The permittee must submit a separate permit modification request for each unrelated category of Class 2 permit change in 40 C.F.R. Section 270.42, Appendix 1.

(B) Each Class 2 Permit Modifications: \$31,800.

(c) Each Class 3 Permit Modifications: \$49,300.

(d) If the permittee withdraws any permit modification request, the Department shall refund 50% of the balance of the fee if paid in full, if the Department has done less than 50% of work to complete processing the action.

(e) The Department shall also assess permittees fees under this section for agency-initiated, legally required modifications.

(5) Hazardous Waste RCRA Exemption Fee:

(a) The Department will assess each person(s) requesting the following activities a standard fee of \$30,000:



(A) Hazardous waste delisting or declassification under 40 C.F.R. Part 260 and ORS 466.015.

(B) A variance from treatability or from the definition of hazardous waste or solid waste.

(C) A petition for universal waste listing.

(b) Within 60 days after receiving a request for a hazardous waste delisting and declassification, variance from treatability or from the definition of hazardous waste or solid waste, or hazardous waste petition for a universal waste listing, the Department may determine that the nature of the request, including the complexity of the proposed action and the factors required to be met for the request to be processed, indicate that a higher fee would be required. If the Department makes such a determination, the Department will require the requestor to pay a higher fee, but not to exceed an additional \$100,000. The Department will notify the person requesting the exemption that an additional fee is required. Upon receiving such a notification, the person may discuss with the Department the amount of the fee and the scope of the Department's regulatory activities associated with investigating and processing the request. The person may withdraw the request or petition and be eligible for a refund of fees paid as described in paragraph (c) of this section.

(c) If the person requesting the exemption withdraws a request for a hazardous waste delisting and declassification, variance from treatability, or from the definition of hazardous waste or solid waste, or hazardous waste petition for universal waste listing, the Department shall refund fees paid depending upon the timing of the withdrawal:

(A) If the person withdraws the request or petition before or within 30 days of notification, the Department will estimate the effort to date and refund any excess fee balance.

(B) If the person withdraws the request or petition more than 30 days after notification that an additional fee is required, the Department will refund 50% of the balance of the fee paid, if the Department has done less than 50% of the work to complete processing the requested action.

[NOTE: View a PDF of 40 C.F.R. §270.42, Appendix I, by clicking on "Tables" link below.]

**Statutory/Other Authority:** ORS 466.020, 466.045, 466.075, 466.165, 466.195 & 468.020

**Statutes/Other Implemented:** ORS 466.045 & 466.165

**History:**

DEQ 11-1998, f. & cert. ef. 6-26-98

DEQ 14-1997, f. & cert. ef. 7-23-97

DEQ 13-1991, f. & cert. ef. 8-5-91

DEQ 33-1989, f. & cert. ef. 12-14-89

DEQ 19-1989(Temp), f. & cert. ef. 7-31-89 (and corrected 8-3-89)

DEQ 11-1988, f. & cert. ef. 5-19-88  
DEQ 14-1987, f. & ef. 7-28-87  
DEQ 22-1986, f. & ef. 12-19-86  
DEQ 8-1985, f. & ef. 7-25-85



# OAR 340-105-0113

## Attachments

**Code of Federal Regulations**

**Title 40 - Protection of Environment**

Volume: 29 Date: 2018-07-01 Original Date: 2018-07-01 Title: Section Â§ 270.42 - Permit modification at the request of the permittee. Context: Title 40 - Protection of Environment. CHAPTER I - ENVIRONMENTAL PROTECTION AGENCY (CONTINUED). SUBCHAPTER I - SOLID WASTES (CONTINUED). PART 270 - EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM. Subpart D - Changes to Permit.

Appendix I to § 270.42—Classification of Permit Modification

<b>Modifications</b>	<b>Class</b>
<i>A. General Permit Provisions</i>	
1. Administrative and informational changes	1
2. Correction of typographical errors	1
3. Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls)	1
4. Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:	
a. To provide for more frequent monitoring, reporting, sampling, or maintenance	1
b. Other changes	2
5. Schedule of compliance:	
a. Changes in interim compliance dates, with prior approval of the Director	1 1
b. Extension of final compliance date	3
6. Changes in expiration date of permit to allow earlier permit termination, with prior approval of the Director	1 1
7. Changes in ownership or operational control of a facility, provided the procedures of § 270.40(b) are followed	1 1
8. Changes to remove permit conditions that are no longer applicable ( <i>i.e.</i> , because the standards upon which they are based are no longer applicable to the facility).	1 1
9. Changes to remove permit conditions applicable to a unit excluded under the provisions of § 261.4.	1 1
10. Changes in the expiration date of a permit issued to a facility at which all units are excluded under the provisions of § 261.4.	1 1
<i>B. General Facility Standards</i>	
1. Changes to waste sampling or analysis methods:	

a. To conform with agency guidance or regulations	1
b. To incorporate changes associated with F039 (multi-source leachate) sampling or analysis methods	1
c. To incorporate changes associated with underlying hazardous constituents in ignitable or corrosive wastes	1 1
d. Other changes	2
2. Changes to analytical quality assurance/control plan:	
a. To conform with agency guidance or regulations	1
b. Other changes	2
3. Changes in procedures for maintaining the operating record	1
4. Changes in frequency or content of inspection schedules	2
5. Changes in the training plan:	
a. That affect the type or decrease the amount of training given to employees	2
b. Other changes	1
6. Contingency plan:	
a. Changes in emergency procedures ( <i>i.e.</i> , spill or release response procedures)	2
b. Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed	1
c. Removal of equipment from emergency equipment list	2
d. Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan	1
7. Construction quality assurance plan:	
a. Changes that the CQA officer certifies in the operating record will provide equivalent or better certainty that the unit components meet the design specifications	1
b. Other changes	2
<b>Note:</b> When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change shall be reviewed under the same procedures as the permit modification.	
<i>C. Ground-Water Protection</i>	
1. Changes to wells:	
a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted ground-water monitoring system	2

b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well	1
2. Changes in ground-water sampling or analysis procedures or monitoring schedule, with prior approval of the Director	1 1
3. Changes in statistical procedure for determining whether a statistically significant change in ground-water quality between upgradient and downgradient wells has occurred, with prior approval of the Director	1 1
4. Changes in point of compliance	2
5. Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs):	
a. As specified in the groundwater protection standard	3
b. As specified in the detection monitoring program	2
6. Changes to a detection monitoring program as required by § 264.98(h), unless otherwise specified in this appendix	2
7. Compliance monitoring program:	
a. Addition of compliance monitoring program as required by §§ 264.98(g)(4) and 264.99	3
b. Changes to a compliance monitoring program as required by § 264.99(j), unless otherwise specified in this appendix	2
8. Corrective action program:	
a. Addition of a corrective action program as required by §§ 264.99(h)(2) and 264.100	3
b. Changes to a corrective action program as required by § 264.100(h), unless otherwise specified in this appendix	2
D. <i>Closure</i>	
1. Changes to the closure plan:	
a. Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the Director	1 1
b. Changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the closure period, with prior approval of the Director	1 1
c. Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the Director	1 1
d. Changes in procedures for decontamination of facility equipment or structures, with prior approval of the Director	1 1

e. Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this appendix	2
f. Extension of the closure period to allow a landfill, surface impoundment or land treatment unit to receive non-hazardous wastes after final receipt of hazardous wastes under § 264.113 (d) and (e)	2
2. Creation of a new landfill unit as part of closure	3
3. Addition of the following new units to be used temporarily for closure activities:	
a. Surface impoundments	3
b. Incinerators	3
c. Waste piles that do not comply with § 264.250(c)	3
d. Waste piles that comply with § 264.250(c)	2
e. Tanks or containers (other than specified below)	2
f. Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the Director	1 1
g. Staging piles	2
<i>E. Post-Closure</i>	
1. Changes in name, address, or phone number of contact in post-closure plan	1
2. Extension of post-closure care period	2
3. Reduction in the post-closure care period	3
4. Changes to the expected year of final closure, where other permit conditions are not changed	1
5. Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure	2
<i>F. Containers</i>	
1. Modification or addition of container units:	
a. Resulting in greater than 25% increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a) below	3
b. Resulting in up to 25% increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a) below	2
c. Or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of “use of practically available technology that yields the greatest environmental benefit” contained in § 268.8(a)(2)(ii), with prior approval of the	1 1

Director. This modification may also involve addition of new waste codes or narrative descriptions of wastes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	
2.	
a. Modification of a container unit without increasing the capacity of the unit	2
b. Addition of a roof to a container unit without alteration of the containment system	1
3. Storage of different wastes in containers, except as provided in (F)(4) below:	
a. That require additional or different management practices from those authorized in the permit	3
b. That do not require additional or different management practices from those authorized in the permit	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	
4. Storage or treatment of different wastes in containers:	
a. That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards, or that are to be treated to satisfy (in whole or in part) the standard of “use of practically available technology that yields the greatest environmental benefit” contained in § 268.8(a)(2)(ii). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1 1
b. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1 1
<i>G. Tanks</i>	
1.	
a. Modification or addition of tank units resulting in greater than 25% increase in the facility's tank capacity, except as provided in G(1)(c), G(1)(d), and G(1)(e) below	3
b. Modification or addition of tank units resulting in up to 25% increase in the facility's tank capacity, except as provided in G(1)(d) and G(1)(e) below	2
c. Addition of a new tank that will operate for more than 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation	2



d. After prior approval of the Director, addition of a new tank that will operate for up to 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation	1 1
e. Modification or addition of tank units or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of “use of practically available technology that yields the greatest environmental benefit” contained in § 268.8(a)(2)(ii), with prior approval of the Director. This modification may also involve addition of new waste codes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1 1
2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit	2
3. Replacement of a tank with a tank that meets the same design standards and has a capacity within ±10% of the replaced tank provided	1
—The capacity difference is no more than 1500 gallons,	
—The facility's permitted tank capacity is not increased, and	
—The replacement tank meets the same conditions in the permit.	
4. Modification of a tank management practice	2
5. Management of different wastes in tanks:	
a. That require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process from that authorized in the permit, except as provided in (G)(5)(c) below	3
b. That do not require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process than authorized in the permit, except as provided in (G)(5)(d)	2
c. That require addition of units or change in treatment processes or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards or that are to be treated to satisfy (in whole or in part) the standard of “use of practically available technology that yields the greatest environmental benefit” contained in § 268.8(a)(2)(ii). The modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1 1
d. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	

<i>H. Surface Impoundments</i>	
1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity	3
2. Replacement of a surface impoundment unit	3
3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system	2
4. Modification of a surface impoundment management practice	2
5. Treatment, storage, or disposal of different wastes in surface impoundments:	
a. That require additional or different management practices or different design of the liner or leak detection system than authorized in the permit	3
b. That do not require additional or different management practices or different design of the liner or leak detection system than authorized in the permit	2
c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in § 269.8(a)(2)(ii), and provided that the unit meets the minimum technological requirements stated in § 268.5(h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a unit that meets the minimum technological requirements stated in § 268.5(h)(2), and provided further that the surface impoundment has previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
6. Modifications of unconstructed units to comply with §§ 264.221(c), 264.222, 264.223, and 264.226(d)	1 1
7. Changes in response action plan:	
a. Increase in action leakage rate	3
b. Change in a specific response reducing its frequency or effectiveness	3
c. Other changes	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes	
<i>I. Enclosed Waste Piles.</i> For all waste piles except those complying with § 264.250(c), modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with § 264.250(c).	

1. Modification or addition of waste pile units:	
a. Resulting in greater than 25% increase in the facility's waste pile storage or treatment capacity	3
b. Resulting in up to 25% increase in the facility's waste pile storage or treatment capacity	2
2. Modification of waste pile unit without increasing the capacity of the unit	2
3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit	1
4. Modification of a waste pile management practice	2
5. Storage or treatment of different wastes in waste piles:	
a. That require additional or different management practices or different design of the unit	3
b. That do not require additional or different management practices or different design of the unit	2
6. Conversion of an enclosed waste pile to a containment building unit	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	
<i>J. Landfills and Unenclosed Waste Piles</i>	
1. Modification or addition of landfill units that result in increasing the facility's disposal capacity	3
2. Replacement of a landfill	3
3. Addition or modification of a liner, leachate collection system, leachate detection system, run-off control, or final cover system	3
4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control, or final cover system	2
5. Modification of a landfill management practice	2
6. Landfill different wastes:	
a. That require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system	3
b. That do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system	2
c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in § 268.8(a)(2)(ii),	1

and provided that the landfill unit meets the minimum technological requirements stated in § 268.5(h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	
d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a landfill unit that meets the minimum technological requirements stated in § 268.5(h)(2), and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
7. Modifications of unconstructed units to comply with §§ 264.251(c), 264.252, 264.253, 264.254(c), 264.301(c), 264.302, 264.303(c), and 264.304	1 1
8. Changes in response action plan:	
a. Increase in action leakage rate	3
b. Change in a specific response reducing its frequency or effectiveness	3
c. Other changes	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	
<i>K. Land Treatment</i>	
1. Lateral expansion of or other modification of a land treatment unit to increase areal extent	3
2. Modification of run-on control system	2
3. Modify run-off control system	3
4. Other modifications of land treatment unit component specifications or standards required in permit	2
5. Management of different wastes in land treatment units:	
a. That require a change in permit operating conditions or unit design specifications	3
b. That do not require a change in permit operating conditions or unit design specifications	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes	
6. Modification of a land treatment unit management practice to:	
a. Increase rate or change method of waste application	3
b. Decrease rate of waste application	1
7. Modification of a land treatment unit management practice to change measures of pH or moisture content, or to enhance microbial or chemical reactions	2

8. Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops, or to modify operating plans for distribution of animal feeds resulting from such crops	3
9. Modification of operating practice due to detection of releases from the land treatment unit pursuant to § 264.278(g)(2)	3
10. Changes in the unsaturated zone monitoring system, resulting in a change to the location, depth, number of sampling points, or replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements	3
11. Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, number of sampling points, or that replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements	2
12. Changes in background values for hazardous constituents in soil and soil-pore liquid	2
13. Changes in sampling, analysis, or statistical procedure	2
14. Changes in land treatment demonstration program prior to or during the demonstration	2
15. Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the Director's prior approval has been received	1 1
16. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the Director	1 1
17. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration	3
18. Changes in vegetative cover requirements for closure	2
L. Incinerators, Boilers, and Industrial Furnaces:	
1. Changes to increase by more than 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
2. Changes to increase by up to 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed	2

rate limit, a metal feed rate limit, or an ash feed rate limit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	
3. Modification of an incinerator, boiler, or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove HCl/Cl <sub>2</sub> , metals, or particulate from the combustion gases, or by changing other features of the incinerator, boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
4. Modification of an incinerator, boiler, or industrial furnace unit in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions or monitoring requirements specified in the permit. The Director may require a new trial burn to demonstrate compliance with the regulatory performance standards	2
5. Operating requirements:	
a. Modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, oxygen concentration in the secondary combustion chamber, flue gas carbon monoxide and hydrocarbon concentration, maximum temperature at the inlet to the particulate matter emission control system, or operating parameters for the air pollution control system. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
b. Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls	3
c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit	2
6. Burning different wastes:	
a. If the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
b. If the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes	

7. Shakedown and trial burn:	
a. Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period, or the period immediately following the trial burn	2
b. Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the Director	11
c. Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the Director	11
d. Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the Director	11
8. Substitution of an alternative type of nonhazardous waste fuel that is not specified in the permit	1
9. Technology changes needed to meet standards under 40 CFR part 63 (Subpart EEE—National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors), provided the procedures of § 270.42(j) are followed.	1 1
10. Changes to RCRA permit provisions needed to support transition to 40 CFR part 63 (Subpart EEE—National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors), provided the procedures of § 270.42(k) are followed.	
M. Containment Buildings.	
1. Modification or addition of containment building units:	
a. Resulting in greater than 25% increase in the facility's containment building storage or treatment capacity	3
b. Resulting in up to 25% increase in the facility's containment building storage or treatment capacity	2
2. Modification of a containment building unit or secondary containment system without increasing the capacity of the unit	2
3. Replacement of a containment building with a containment building that meets the same design standards provided:	
a. The unit capacity is not increased	1
b. The replacement containment building meets the same conditions in the permit	1
4. Modification of a containment building management practice	2
5. Storage or treatment of different wastes in containment buildings:	
a. That require additional or different management practices	3

b. That do not require additional or different management practices	2
N. Corrective Action:	
1. Approval of a corrective action management unit pursuant to § 264.552	3
2. Approval of a temporary unit or time extension for a temporary unit pursuant to § 264.553	2
3. Approval of a staging pile or staging pile operating term extension pursuant to § 264.554	2
O. Burden Reduction	
1. [Reserved]	
2. Development of one contingency plan based on Integrated Contingency Plan Guidance pursuant to § 264.52(b)	1
3. Changes to recordkeeping and reporting requirements pursuant to: §§ 264.56(i), 264.343(a)(2), 264.1061(b)(1),(d), 264.1062(a)(2), 264.196(f), 264.100(g), and 264.113(e)(5)	1
4. Changes to inspection frequency for tank systems pursuant to § 264.195(b)	1
5. Changes to detection and compliance monitoring program pursuant to §§ 264.98(d), (g)(2), and (g)(3), 264.99(f), and (g)	1

1 Class 1 modifications requiring prior Agency approval.

[53 FR 37936, Sept. 28, 1988]





State of Oregon Department of Environmental Quality

**OAR 340-105-0113**

**Attachments**

**Code of Federal Regulations**

**Title 40 - Protection of Environment**

Volume: 29 Date: 2018-07-01 Original Date: 2018-07-01 Title: Section Â§ 270.42 - Permit modification at the request of the permittee. Context: Title 40 - Protection of Environment. CHAPTER I - ENVIRONMENTAL PROTECTION AGENCY (CONTINUED). SUBCHAPTER I - SOLID WASTES (CONTINUED). PART 270 - EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM. Subpart D - Changes to Permit.

Appendix I to § 270.42—Classification of Permit Modification

<b>Modifications</b>	<b>Class</b>
<i>A. General Permit Provisions</i>	
1. Administrative and informational changes	1
2. Correction of typographical errors	1
3. Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls)	1
4. Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:	
a. To provide for more frequent monitoring, reporting, sampling, or maintenance	1
b. Other changes	2
5. Schedule of compliance:	
a. Changes in interim compliance dates, with prior approval of the Director	1 1
b. Extension of final compliance date	3
6. Changes in expiration date of permit to allow earlier permit termination, with prior approval of the Director	1 1
7. Changes in ownership or operational control of a facility, provided the procedures of § 270.40(b) are followed	1 1
8. Changes to remove permit conditions that are no longer applicable ( <i>i.e.</i> , because the standards upon which they are based are no longer applicable to the facility).	1 1
9. Changes to remove permit conditions applicable to a unit excluded under the provisions of § 261.4.	1 1
10. Changes in the expiration date of a permit issued to a facility at which all units are excluded under the provisions of § 261.4.	1 1
<i>B. General Facility Standards</i>	
1. Changes to waste sampling or analysis methods:	

a. To conform with agency guidance or regulations	1
b. To incorporate changes associated with F039 (multi-source leachate) sampling or analysis methods	1
c. To incorporate changes associated with underlying hazardous constituents in ignitable or corrosive wastes	1 1
d. Other changes	2
2. Changes to analytical quality assurance/control plan:	
a. To conform with agency guidance or regulations	1
b. Other changes	2
3. Changes in procedures for maintaining the operating record	1
4. Changes in frequency or content of inspection schedules	2
5. Changes in the training plan:	
a. That affect the type or decrease the amount of training given to employees	2
b. Other changes	1
6. Contingency plan:	
a. Changes in emergency procedures ( <i>i.e.</i> , spill or release response procedures)	2
b. Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed	1
c. Removal of equipment from emergency equipment list	2
d. Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan	1
7. Construction quality assurance plan:	
a. Changes that the CQA officer certifies in the operating record will provide equivalent or better certainty that the unit components meet the design specifications	1
b. Other changes	2
<b>Note:</b> When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change shall be reviewed under the same procedures as the permit modification.	
<i>C. Ground-Water Protection</i>	
1. Changes to wells:	
a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted ground-water monitoring system	2

b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well	1
2. Changes in ground-water sampling or analysis procedures or monitoring schedule, with prior approval of the Director	1 1
3. Changes in statistical procedure for determining whether a statistically significant change in ground-water quality between upgradient and downgradient wells has occurred, with prior approval of the Director	1 1
4. Changes in point of compliance	2
5. Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs):	
a. As specified in the groundwater protection standard	3
b. As specified in the detection monitoring program	2
6. Changes to a detection monitoring program as required by § 264.98(h), unless otherwise specified in this appendix	2
7. Compliance monitoring program:	
a. Addition of compliance monitoring program as required by §§ 264.98(g)(4) and 264.99	3
b. Changes to a compliance monitoring program as required by § 264.99(j), unless otherwise specified in this appendix	2
8. Corrective action program:	
a. Addition of a corrective action program as required by §§ 264.99(h)(2) and 264.100	3
b. Changes to a corrective action program as required by § 264.100(h), unless otherwise specified in this appendix	2
D. <i>Closure</i>	
1. Changes to the closure plan:	
a. Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the Director	1 1
b. Changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the closure period, with prior approval of the Director	1 1
c. Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the Director	1 1
d. Changes in procedures for decontamination of facility equipment or structures, with prior approval of the Director	1 1

e. Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this appendix	2
f. Extension of the closure period to allow a landfill, surface impoundment or land treatment unit to receive non-hazardous wastes after final receipt of hazardous wastes under § 264.113 (d) and (e)	2
2. Creation of a new landfill unit as part of closure	3
3. Addition of the following new units to be used temporarily for closure activities:	
a. Surface impoundments	3
b. Incinerators	3
c. Waste piles that do not comply with § 264.250(c)	3
d. Waste piles that comply with § 264.250(c)	2
e. Tanks or containers (other than specified below)	2
f. Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the Director	1 1
g. Staging piles	2
<i>E. Post-Closure</i>	
1. Changes in name, address, or phone number of contact in post-closure plan	1
2. Extension of post-closure care period	2
3. Reduction in the post-closure care period	3
4. Changes to the expected year of final closure, where other permit conditions are not changed	1
5. Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure	2
<i>F. Containers</i>	
1. Modification or addition of container units:	
a. Resulting in greater than 25% increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a) below	3
b. Resulting in up to 25% increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a) below	2
c. Or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of “use of practically available technology that yields the greatest environmental benefit” contained in § 268.8(a)(2)(ii), with prior approval of the	1 1

Director. This modification may also involve addition of new waste codes or narrative descriptions of wastes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	
2.	
a. Modification of a container unit without increasing the capacity of the unit	2
b. Addition of a roof to a container unit without alteration of the containment system	1
3. Storage of different wastes in containers, except as provided in (F)(4) below:	
a. That require additional or different management practices from those authorized in the permit	3
b. That do not require additional or different management practices from those authorized in the permit	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	
4. Storage or treatment of different wastes in containers:	
a. That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards, or that are to be treated to satisfy (in whole or in part) the standard of “use of practically available technology that yields the greatest environmental benefit” contained in § 268.8(a)(2)(ii). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1 1
b. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1 1
<i>G. Tanks</i>	
1.	
a. Modification or addition of tank units resulting in greater than 25% increase in the facility's tank capacity, except as provided in G(1)(c), G(1)(d), and G(1)(e) below	3
b. Modification or addition of tank units resulting in up to 25% increase in the facility's tank capacity, except as provided in G(1)(d) and G(1)(e) below	2
c. Addition of a new tank that will operate for more than 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation	2

d. After prior approval of the Director, addition of a new tank that will operate for up to 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation	1 1
e. Modification or addition of tank units or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of “use of practically available technology that yields the greatest environmental benefit” contained in § 268.8(a)(2)(ii), with prior approval of the Director. This modification may also involve addition of new waste codes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1 1
2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit	2
3. Replacement of a tank with a tank that meets the same design standards and has a capacity within ±10% of the replaced tank provided	1
—The capacity difference is no more than 1500 gallons,	
—The facility's permitted tank capacity is not increased, and	
—The replacement tank meets the same conditions in the permit.	
4. Modification of a tank management practice	2
5. Management of different wastes in tanks:	
a. That require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process from that authorized in the permit, except as provided in (G)(5)(c) below	3
b. That do not require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process than authorized in the permit, except as provided in (G)(5)(d)	2
c. That require addition of units or change in treatment processes or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards or that are to be treated to satisfy (in whole or in part) the standard of “use of practically available technology that yields the greatest environmental benefit” contained in § 268.8(a)(2)(ii). The modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1 1
d. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	

<i>H. Surface Impoundments</i>	
1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity	3
2. Replacement of a surface impoundment unit	3
3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system	2
4. Modification of a surface impoundment management practice	2
5. Treatment, storage, or disposal of different wastes in surface impoundments:	
a. That require additional or different management practices or different design of the liner or leak detection system than authorized in the permit	3
b. That do not require additional or different management practices or different design of the liner or leak detection system than authorized in the permit	2
c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of “use of practically available technology that yields the greatest environmental benefit” contained in § 269.8(a)(2)(ii), and provided that the unit meets the minimum technological requirements stated in § 268.5(h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a unit that meets the minimum technological requirements stated in § 268.5(h)(2), and provided further that the surface impoundment has previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
6. Modifications of unconstructed units to comply with §§ 264.221(c), 264.222, 264.223, and 264.226(d)	1 1
7. Changes in response action plan:	
a. Increase in action leakage rate	3
b. Change in a specific response reducing its frequency or effectiveness	3
c. Other changes	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes	
<i>I. Enclosed Waste Piles.</i> For all waste piles except those complying with § 264.250(c), modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with § 264.250(c).	



1. Modification or addition of waste pile units:	
a. Resulting in greater than 25% increase in the facility's waste pile storage or treatment capacity	3
b. Resulting in up to 25% increase in the facility's waste pile storage or treatment capacity	2
2. Modification of waste pile unit without increasing the capacity of the unit	2
3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit	1
4. Modification of a waste pile management practice	2
5. Storage or treatment of different wastes in waste piles:	
a. That require additional or different management practices or different design of the unit	3
b. That do not require additional or different management practices or different design of the unit	2
6. Conversion of an enclosed waste pile to a containment building unit	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	
<i>J. Landfills and Unenclosed Waste Piles</i>	
1. Modification or addition of landfill units that result in increasing the facility's disposal capacity	3
2. Replacement of a landfill	3
3. Addition or modification of a liner, leachate collection system, leachate detection system, run-off control, or final cover system	3
4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control, or final cover system	2
5. Modification of a landfill management practice	2
6. Landfill different wastes:	
a. That require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system	3
b. That do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system	2
c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of “use of practically available technology that yields the greatest environmental benefit” contained in § 268.8(a)(2)(ii),	1

and provided that the landfill unit meets the minimum technological requirements stated in § 268.5(h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	
d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a landfill unit that meets the minimum technological requirements stated in § 268.5(h)(2), and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028)	1
7. Modifications of unconstructed units to comply with §§ 264.251(c), 264.252, 264.253, 264.254(c), 264.301(c), 264.302, 264.303(c), and 264.304	1 1
8. Changes in response action plan:	
a. Increase in action leakage rate	3
b. Change in a specific response reducing its frequency or effectiveness	3
c. Other changes	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes.	
<i>K. Land Treatment</i>	
1. Lateral expansion of or other modification of a land treatment unit to increase areal extent	3
2. Modification of run-on control system	2
3. Modify run-off control system	3
4. Other modifications of land treatment unit component specifications or standards required in permit	2
5. Management of different wastes in land treatment units:	
a. That require a change in permit operating conditions or unit design specifications	3
b. That do not require a change in permit operating conditions or unit design specifications	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes	
6. Modification of a land treatment unit management practice to:	
a. Increase rate or change method of waste application	3
b. Decrease rate of waste application	1
7. Modification of a land treatment unit management practice to change measures of pH or moisture content, or to enhance microbial or chemical reactions	2

8. Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops, or to modify operating plans for distribution of animal feeds resulting from such crops	3
9. Modification of operating practice due to detection of releases from the land treatment unit pursuant to § 264.278(g)(2)	3
10. Changes in the unsaturated zone monitoring system, resulting in a change to the location, depth, number of sampling points, or replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements	3
11. Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, number of sampling points, or that replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements	2
12. Changes in background values for hazardous constituents in soil and soil-pore liquid	2
13. Changes in sampling, analysis, or statistical procedure	2
14. Changes in land treatment demonstration program prior to or during the demonstration	2
15. Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the Director's prior approval has been received	1 1
16. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the Director	1 1
17. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration	3
18. Changes in vegetative cover requirements for closure	2
L. Incinerators, Boilers, and Industrial Furnaces:	
1. Changes to increase by more than 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
2. Changes to increase by up to 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed	2

rate limit, a metal feed rate limit, or an ash feed rate limit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	
3. Modification of an incinerator, boiler, or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove HCl/Cl <sub>2</sub> , metals, or particulate from the combustion gases, or by changing other features of the incinerator, boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
4. Modification of an incinerator, boiler, or industrial furnace unit in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions or monitoring requirements specified in the permit. The Director may require a new trial burn to demonstrate compliance with the regulatory performance standards	2
5. Operating requirements:	
a. Modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, oxygen concentration in the secondary combustion chamber, flue gas carbon monoxide and hydrocarbon concentration, maximum temperature at the inlet to the particulate matter emission control system, or operating parameters for the air pollution control system. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
b. Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls	3
c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit	2
6. Burning different wastes:	
a. If the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means	3
b. If the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit	2
<b>Note:</b> See § 270.42(g) for modification procedures to be used for the management of newly listed or identified wastes	

7. Shakedown and trial burn:	
a. Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period, or the period immediately following the trial burn	2
b. Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the Director	11
c. Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the Director	11
d. Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the Director	11
8. Substitution of an alternative type of nonhazardous waste fuel that is not specified in the permit	1
9. Technology changes needed to meet standards under 40 CFR part 63 (Subpart EEE—National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors), provided the procedures of § 270.42(j) are followed.	1 1
10. Changes to RCRA permit provisions needed to support transition to 40 CFR part 63 (Subpart EEE—National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors), provided the procedures of § 270.42(k) are followed.	
M. Containment Buildings.	
1. Modification or addition of containment building units:	
a. Resulting in greater than 25% increase in the facility's containment building storage or treatment capacity	3
b. Resulting in up to 25% increase in the facility's containment building storage or treatment capacity	2
2. Modification of a containment building unit or secondary containment system without increasing the capacity of the unit	2
3. Replacement of a containment building with a containment building that meets the same design standards provided:	
a. The unit capacity is not increased	1
b. The replacement containment building meets the same conditions in the permit	1
4. Modification of a containment building management practice	2
5. Storage or treatment of different wastes in containment buildings:	
a. That require additional or different management practices	3

b. That do not require additional or different management practices	2
N. Corrective Action:	
1. Approval of a corrective action management unit pursuant to § 264.552	3
2. Approval of a temporary unit or time extension for a temporary unit pursuant to § 264.553	2
3. Approval of a staging pile or staging pile operating term extension pursuant to § 264.554	2
O. Burden Reduction	
1. [Reserved]	
2. Development of one contingency plan based on Integrated Contingency Plan Guidance pursuant to § 264.52(b)	1
3. Changes to recordkeeping and reporting requirements pursuant to: §§ 264.56(i), 264.343(a)(2), 264.1061(b)(1),(d), 264.1062(a)(2), 264.196(f), 264.100(g), and 264.113(e)(5)	1
4. Changes to inspection frequency for tank systems pursuant to § 264.195(b)	1
5. Changes to detection and compliance monitoring program pursuant to §§ 264.98(d), (g)(2), and (g)(3), 264.99(f), and (g)	1

1 Class 1 modifications requiring prior Agency approval.

[53 FR 37936, Sept. 28, 1988]