



Oregon Department of Environmental Quality
July 11-13, 2017
Oregon Environmental Quality Commission meeting
Rulemaking, Action item F

Hazardous Waste Phase II Rulemaking

This file contains the following documents:

- EQC Staff Report
- Attachment A: Draft rules – redline/strikethrough
- Attachment B: Draft rules – no markup
- Attachment C: Supporting documents

DEQ recommendation to the EQC

DEQ recommends the Oregon Environmental Quality Commission adopt the proposed rules in Attachment A as part of Chapter 340 of the Oregon Administrative Rules, and approve incorporating these rules into the Oregon Resource Conservation and Recovery Act implementation plan to be effective when DEQ files the rules with the Oregon Secretary of State.

Overview

Short summary

The primary purpose of the rule revision is to incorporate federal requirements into the state's rules. The U.S. Environmental Protection Agency authorizes DEQ to implement the federal hazardous waste rules in Oregon. To ensure consistency, DEQ must periodically update its rules by adopting new federal requirements. These changes provide consistency with the federal hazardous waste rules.

DEQ plans to make changes to Oregon's hazardous waste regulations, Chapter OAR 340, Divisions 100, 101, 102, to incorporate new federal hazardous waste rules to include:

- A new rule simplifying waste management at academic laboratories
- Conditional exclusions for solvent-contaminated wipes
- EPA's withdrawal of comparable fuels rule
- Incorporating federal corrections to hazardous waste regulations

Brief history

EPA authorizes DEQ to operate the federal Resource Conservation and Recovery Act hazardous waste program in Oregon. Oregon must periodically review and adopt new or amended federal regulations to retain federal authorization. DEQ last updated its rules in April 2015. In that rulemaking, DEQ incorporated by reference most federal regulations enacted through June 30, 2014.

Summary of changes

Table 1

The following proposed rules incorporate state amended versions of federal regulations for the first time:

#	Federal Register	Subject	40 CFR
1	78 FR 46447-46485 – Jul. 31, 2013, effective Jan. 31, 2014	Conditional Exclusions from Solid Waste and Hazardous Waste for Solvent-Contaminated Wipes	Parts 260, 261
2, 3	73 FR 72911-72960 – Dec. 1, 2008, effective Dec. 31, 2008 75 FR 79304-79308 – Dec. 20, 2010, effective Mar. 7, 2011	Academic Laboratories Generator Standards and Academic Laboratories Generator Standards Technical Corrections	Parts 260, 261 Part 262
4	63 FR 56710-56735 – Oct. 22, 1998, effective Oct. 22, 1998	Standards Applicable to Owners and Operators of Closed and Closing Hazardous Waste Management Facilities; Post-Closure Permit Requirement	Parts 264, 265, 270, 271

Table 2

The following proposed rules incorporate federal regulations for the first time without state amendment:

#	Federal Register	Subject	40 CFR
5	80 FR 21301-21501 – Apr. 17, 2015, effective Oct. 14, 2015	Disposal of Coal Combustion Residuals from Electric Utilities	Parts 257, 261
6	65 FR 30886-30913 – May 15, 2000, effective Jun. 14, 2000 <i>EPA-only rule, not applicable to state program.</i>	Amendments to Streamline the National Pollutant Discharge Elimination System Program Regulations: Round Two	Parts 260, 261
7, 8	80 FR 18777-18780 – Apr. 8, 2015, effective Apr. 8, 2015 75 FR 33712-33724 – Jun. 15, 2010, effective Jun. 15, 2010	Vacatur of Comparable Fuels Rule and Gasification Rule and Withdraw: Emission-Comparable Fuel Exclusion	Parts 260, 261

Table 3

DEQ considered the following federal regulations for state adoption, and is choosing not to propose adoption at this time to allow further considerations for human health and the environment:

#	Federal Register	Subject	40 CFR
9	80 FR 1694-1814 – Jan. 13, 2015, effective Jul. 13, 2015	Definition of Solid Waste	Parts 260, 261
10	79 FR 350-364 – Jan. 3, 2014, effective Mar. 4, 2014	Conditional Exclusion for CO2 Streams in Geologic Sequestration Activities	Parts 260, 261, 9

Affected parties

Most of the proposed rules increase regulatory flexibility by providing alternate management standards and adding exemptions to current hazardous waste regulations. The proposed rules do not add any new businesses to those that are already regulated.

Request for other options

During the public comment period, DEQ requested public comments on other available options to achieve the rules' substantive goals while reducing the rules' negative economic impact on business. DEQ received no comments or requests for other options.

Statement of Need

What need would the proposed rule address?

DEQ last updated the Resource Conservation and Recovery Act program rules in 2015. EPA has enacted new and amended regulations since then. DEQ rules are no longer consistent with the federal rules. Federal law requires a state to adopt the current federal rules to retain federal authorization to operate the state's hazardous waste program.

How would the proposed rule address the need?

Adopting the relevant federal regulations will align the state with the current federal regulations and allow Oregon to seek continued federal authorization for its hazardous waste program.

How will DEQ know the rule addressed the need?

The rules will have addressed the need when the EPA authorizes Oregon to continue operating the state's program. The rules will help Oregon protect human health and the environment from mismanagement of hazardous wastes.

Rules affected, authorities, supporting documents

Lead division

Program

Hazardous Waste Program
State Implementation Plan

Chapter 340 action

Adopt	OAR 340-102-0200
Amend	OAR 340-100-0002 OAR 340-101-0004

Statutory authority

ORS 183, 192, 459, 465.009, 465.505, 466.015, 466.020, 466.075, 466.090, 466.105, 466.165, 466.180, 466.195, 468, 468.020, 646

Statute implemented

ORS 465.003, 465.009, 465.505, 466.005, 466.015, 466.075, 466.105, 466.195

Fee Analysis

This rulemaking does not involve fees.

Statement of fiscal and economic impact

Fiscal and Economic Impact

Solvent-contaminated wipes rule

DEQ determined some negative impacts for the reuse portion of the proposed rule due to additional training, labeling, and container management requirements, and time limits and loss of DEQ's current 1996 *Contaminated Rags Destined for Laundering* policy. The 1996 rag policy exempted businesses from making hazardous waste determinations on laundered wipes. The policy is broader in scope by allowing wipes contaminated with metals and other solvents than what the rule allows. EPA requires DEQ to rescind the 1996 rag policy or adopt the policy into state regulations. Since the federal policy is less stringent than current state policy, adopting the policy is not an option. Therefore, DEQ must remove the policy.

All other proposed rules to adopt

DEQ anticipates adopting the new federal standards will cause no significant fiscal or economic impacts. The fiscal and economic impacts occurred when EPA adopted the rules. EPA evaluated the fiscal and economic effects of its rules and confirmed there are no significant economic or fiscal impacts to each proposed rule.

Assumptions

DEQ assumes optional and less stringent regulations will have no negative impact on regulated facilities. DEQ also assumes the fiscal and economic impacts identified in federal rulemaking are accurate and apply to Oregon facilities in the same way as the federal rulemaking determined.

Statement of Cost of Compliance

State and federal agencies

Oregon DEQ

DEQ anticipates adopting the proposed rules will cause minor economic impacts on its own revenues and expenses. Any rule change requires agency staff training and outreach to the regulated community. DEQ expects this impact to be minor as DEQ currently performs outreach through the hazardous waste technical assistance program to regulated facilities.

The proposed rule may result in an indeterminable decrease in revenue for the hazardous waste program. Since some businesses may lower their hazardous waste generator category, generators may pay less fees for hazardous waste disposal, and DEQ may receive less fees from permitted facilities.

Local governments

The cost to comply with the proposed rules is identical to costs describe under small businesses.

Public

DEQ anticipates there will be no fiscal or economic impacts to the general public.

Large businesses - businesses with more than 50 employees

Solvent-contaminated wipes rule

Due to EPA's requirement for authorized state programs to remove any existing reuse wipe guidance documents or interpretive letters, such as DEQ's long-standing 1996 *Contaminated Rags Destined for Laundering* policy, the proposed rule adoption will cause some negative fiscal and economic impacts for the reuse portion of the rule as the policy is removed. Facilities disposing of some wipes formerly excluded by the DEQ rag reuse policy will have to manage them as hazardous waste. This change will result in additional disposal costs if not eligible under this rule or another exclusion. DEQ cannot quantify the actual costs to small businesses at this time. Those businesses formerly managing their reusable wipes under the rag policy did not have to notify DEQ.

The cost to comply with the other proposed rules is identical to costs described under small businesses.

Small businesses – businesses with 50 or fewer employees

DEQ anticipates adopting the new federal standards will not cause any significant fiscal or economic impacts. The Regulatory Flexibility Act requires EPA to conduct economic assessments for small businesses prior to each rule adoption. The EPA determined none of the proposed rules would have significant economic impacts on small businesses.

Solvent-contaminated wipes rule

There are no adverse impacts for small businesses since most are unregulated and can already co-mingle wipes with other wastes.

Academic laboratories rule

The optional rule may result in overall cost savings for eligible labs by managing hazardous wastes under an alternative and equivalent management standard by reducing transportation costs, further protecting students and staff, and allowing yearly cleanouts. An eligible lab will need to consider the costs and benefits of choosing this option.

All other proposed rules to adopt

Oregon currently has one site that is impacted by the federal solid waste parts of the coal combustion residuals rule. There are no current or expected hazardous waste impacts with the adoption of this rule.

Impact on small businesses

a. Estimated number of small businesses and types of businesses and industries with small businesses subject to the proposed rules.

Solvent-contaminated wipes rule

DEQ reviewed its current list of small and large quantity generators and found this rule may potentially affect approximately 500 listed active generators. In addition, using recent Oregon Department of Employment data, DEQ found an estimated 2,036 potentially unregulated businesses with less than 50 employees that may generate solvent-contaminated wipes in Oregon. These are listed under 47 sub-sectors of the North American Industry Classification System codes that include: 290 printers, 29 business copy shops, 15 chemical and allied products, 58 plastic and rubber, 81 fabricated metal production, 202 industry machinery and equipment, 317 furniture and fixtures, 28 electric and computers, 51 transportation equipment, and 965 auto repair shops. EPA estimated the affected handling facilities in Oregon include 14 commercial laundries.

Academic laboratories rule

Using recent Oregon employment data, DEQ found 861 eligible NAICS-coded laboratories with 860 of them having less than 50 employees in Oregon that could choose this proposed rule's alternate standard. Those include: 36 research and development institutions, 463 veterinary services, eight junior colleges, 95 colleges, university, professional, 74 other technical, trade, 176 fine arts schools, seven general medical and surgical, and two psychiatric and substance abuse entities.

All other proposed rules to adopt

Post-closure: The four current hazardous waste permitted facilities have more than 50 employees. DEQ does not anticipate any new applications, since it received its last application over twelve years ago.

Coal: Oregon has one active coal-fired power plant that employs 26 employees. The plant anticipates closing by Dec. 31, 2020 and is currently subject to the federal solid waste parts of the coal combustion residuals rule. Adopting this rule will not cause any current or expected hazardous waste impacts.

NPDES: The rule makes administrative changes and will have no effect on compliance costs for permittees. The rule is an EPA-only rule and not applicable to state programs.

Comparable Fuel: Oregon currently has no operating facilities identified by EPA or DEQ. An operating facility must notify DEQ for the exclusion to apply.

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

Solvent-contaminated wipes rule

This rule will likely present no additional requirements because most small businesses are conditionally exempt generators with limited hazardous waste management requirements. However, in losing DEQ's long-standing rag policy, small businesses will need to properly dispose of reusable wipes formerly excluded if not eligible under another exclusion. DEQ's amendment to the proposed rule will require small businesses to dispose of non-excluded wipes as solid waste to a permitted subtitle C hazardous waste disposal facility or hazardous waste incinerator. This will result in increased disposal costs from EPA's wipes rule, but at a lower cost than if they had to dispose them as a hazardous waste. EPA's rule allows wipes to go to a municipal landfill. However, DEQ is amending the rule to prohibit that form of disposal to address expressed concerns about management of disposable wipes while aligning with neighboring state regulations. Similarly, as mentioned above for large businesses, DEQ cannot quantify the actual costs to small businesses at this time. Those businesses formerly managing their reusable wipes under the rag policy did not have to notify DEQ.

Academic laboratories rule

DEQ cannot quantify costs associated with lab plan development, additional reporting, training, and administrative costs as it depends on the size of facility, number of staff and students, and complexity of research conducted at the lab. As this rule is optional, eligible labs will need to weigh the costs and benefits.

All other proposed rules to adopt

Post-closure: The rule will likely result in cost savings for the four permitted facilities by the reduced permit application requirement for permit renewals.

Coal: Oregon identified one coal-fired power plant facility which is subject to the federal solid waste parts of the coal combustion rule. There are no current or expected hazardous waste impacts with the adoption of this rule.

All others: Adoption will not impose new requirements.

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

Solvent-contaminated wipes rule

DEQ anticipates the rule will present no additional requirements to those stated in section b above.

Academic laboratories rule

Eligible labs choosing to opt-in could see a reduction in hazardous waste administrative costs by consolidating wastes, not having to count yearly cleanout materials toward their hazardous waste generator category, and seeing reduced transportation costs. These identified costs may outweigh the potential increased costs for management, training, and development of the lab plan. Eligible labs will need to make a determination if the benefits outweigh the costs.

All other proposed rules to adopt

These rules impose no new requirements, and do not add any new hazardous waste regulated businesses.

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

DEQ included small business representation on the Hazardous Waste Rulemaking Advisory Committee. The committee received advance drafts of each rule's fiscal impact statement and advised DEQ on the cost of compliance for small businesses during the three advisory committee meetings.

Documents relied on for fiscal and economic impact

Document title	Document location
Federal Regulatory Impact Analysis	EPA 2013 RIA for Solvent-Contaminated Wipes EPA 2008 Economic Analysis for Academic Laboratories EPA 2006 Economic Analysis for Academic Laboratories EPA 1998 RIA for final Post-Closure Rule EPA 2014 Regulatory Impact Analysis for Coal Combustion Residuals EPA 2015 RIA for Coal Combustion Residual Appendices EPA 2007 Economic Analysis for Comparable Fuel Exclusion EPA 2015 Comparable Fuel Facilities List
Oregon Department of Employment 1 st quarter 2016 data	Employment Department 875 Union Street NE Salem OR 97311

Advisory committee

DEQ convened the Hazardous Waste Rulemaking Advisory Committee to inform this rulemaking. The nine-member committee met in February, March and April 2016, to provide input about the draft rules and fiscal impacts. Committee members reviewed the draft fiscal and economic impact statements for each proposed rule before the committee meetings. During the committee meetings, at the end of each rule presentation, DEQ asked the committee to consider the proposed rule's fiscal impacts. As OAR 183.333 requires, DEQ asked committee members:

- 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?

DEQ documented the committee's fiscal impact responses in the approved meeting notes of Feb. 3, 2016, March 1, 2016, and April 5, 2016, as posted to DEQ's [Hazardous Waste Phase II 2016 Rulemaking Advisory Committee Webpage](#).

The committee determined that, although some of the proposed rules will have potential impacts, the proposed rules as a whole will not have significant, adverse impacts on Oregon small businesses. Below are the advisory committee's summarized fiscal impact determinations for each of the proposed rules to adopt, as approved in the April 5, 2016, meeting notes:

Wipes rule:

Reuse – The committee determined the reuse portion of the rules causes some negative impacts. These include added costs from additional training, labeling, time limits, container management, and loss of DEQ's current *Contaminated Rags Destined for Laundering* policy. Facilities need to manage

some wipes, formerly excluded by policy, as waste resulting in additional disposal costs if not eligible under another exclusion. There are no adverse impacts for small businesses since most are unregulated and can already co-mingle wipes with other wastes.

Disposal – The committee determined positive fiscal impacts for the disposal portion of the rule with no adverse impacts for small businesses.

Lab rules:

The committee identified no adverse fiscal impacts in adoption, as it is optional. The possible negative impacts, including cost of training and administrative burden, could be outweighed by such benefits as accumulation time and operational flexibility. Savings will differ for eligible labs due to size, staffing, and complexity of research.

Post-closure rule:

The committee identified no adverse fiscal impacts in adoption.

Coal rule:

The committee identified no adverse fiscal impacts in adoption.

NPDES rule:

The committee identified no adverse fiscal impacts in adoption.

Fuel rules:

The committee identified no adverse fiscal impacts in adoption.

Housing cost

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on 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 given 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.

These proposed rules would adopt federal requirements by reference without state amendment:

**Technical Correction to the Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated with Colleges and Universities
DECEMBER 20, 2010, 40 CFR Parts 262, 75 FR 79304 (CL 226)**

EPA SUMMARY: EPA is taking direct, final action for six technical corrections to an alternative set of hazardous waste generator requirements known as the “Academic Laboratories rule” or “Subpart K.” This rule applies to laboratories owned by eligible academic entities. These changes correct errors published in the Academic Laboratories Final rule, including omissions and redundancies, as well as removing an obsolete reference to the National Environmental Performance Track program, which has been terminated. These technical corrections will improve the clarity of the Academic Laboratories rule.

Differences in the draft state rule: No differences in the state rule. This federal rule is incorporated by reference at OAR 340-100-0002.

**Standards Applicable to Owners and Operators of Closed and Closing Hazardous Waste Management Facilities; Post-Closure Permit Requirement; Closure Process
October 22, 1998, 40 CFR Parts 264, 265, 270, and 271, 63 FR 56710 (CL 174)**

EPA SUMMARY: The Environmental Protection Agency is amending the regulations under the Resource Conservation and Recovery Act in two areas. First, the agency is modifying the requirement for a post closure permit, to allow EPA and the authorized states to use a variety of authorities to impose requirements on non-permitted land disposal units requiring post-closure care. As a result of this rule, regulators have the flexibility to use alternate mechanisms under a variety of authorities to address these requirements, based on the particular needs at the facility. Second, for all facilities, the agency is amending the regulations governing closure of land-based units that have released hazardous constituents, to allow certain units to be addressed through the corrective action program. As a result of this rule, EPA and the authorized states will have discretion to use corrective action requirements, rather than closure requirements, to address the regulated units. This flexibility will reduce the potential for confusion and inefficiency created by the application of two different regulatory requirements. Finally, the Agency is specifying the Part B information submission requirements for facilities that receive post-closure permits.

Differences in the draft state rule: The state rule expressly adopts by reference only the permit Part B information submission requirements for facilities obtaining or renewing post-closure permits. The remainder of the rule will not be adopted at this time.

Disposal of Coal Combustion Residuals from Electric Utilities

April 17, 2015, 40 CFR Parts 257 and 261, 80 FR 21301 (CL 235)

EPA SUMMARY: The Environmental Protection Agency is publishing a final rule to regulate the disposal of coal combustion residuals (CCR) as solid waste under subtitle D of the Resource Conservation and Recovery Act. The available information demonstrates that the risks posed to human health and the environment by certain CCR management units warrant regulatory controls. EPA is finalizing national minimum criteria for existing and new CCR landfills and existing and new CCR surface impoundments and all lateral expansions consisting of location restrictions, design and operating criteria, groundwater monitoring and corrective action, closure requirements and post closure care, and recordkeeping, notification, and internet posting requirements. The rule requires any existing unlined CCR surface impoundment that is contaminating groundwater above a regulated constituent's groundwater protection standard to stop receiving CCR and either retrofit or close, except in limited circumstances. It also requires closing any CCR landfill or CCR surface impoundment that cannot meet the applicable performance criteria for location restrictions or structural integrity. Finally, those CCR surface impoundments that do not receive CCR after the rule's effective date, but still contain water and CCR, will be subject to all applicable regulatory requirements, unless the owner or operator of the facility dewateres and installs a final cover system on these inactive units no later than three years after EPA publishes the rule. EPA is deferring its final decision on the Bevill Regulatory Determination because of regulatory and technical uncertainties that cannot be resolved at this time.

Differences in the draft state rule: No differences in the state rule. This federal rule is incorporated by reference at OAR 340-100-0002.

Streamline the National Pollutant Discharge Elimination System Program Regulations
May 15, 2000 40 CFR Parts 270 and 271, 65 FR 30886 (CL 186)

EPA SUMMARY: The Environmental Protection Agency is revising the National Pollutant Discharge Elimination System regulations. This revision is part of an Agency-wide effort to respond to a directive the president issued on February 21, 1995. This directed Federal agencies to review their regulatory programs to eliminate any obsolete, ineffective, or unduly burdensome regulations. In response to that directive, EPA initiated a detailed review of its regulations to determine which provisions were obsolete, duplicative, or unduly burdensome. On June 29, 1995, EPA issued a rule (60 FR 33926) that removed some regulatory provisions in the Office of Water program regulations, including certain NPDES provisions, that were clearly obsolete. The revision is intended to further streamline NPDES, Resource Conservation and Recovery Act, Prevention of Significant Deterioration, and Underground Injection Control permitting procedures, and CWA 301(h) variance request procedures, by revising requirements to eliminate redundant regulatory language, provide clarification, and remove or streamline unnecessary procedures that do not provide any environmental benefits. Conforming changes to other requirements are also made in this rule. This is an EPA-only rule and not applicable to state programs.

Differences in the draft state rule: No differences in the state rule. This federal rule is incorporated by reference at OAR 340-100-0002.

Response to Vacatures of the Comparable Fuels Rule and the Gasification Rule
April 8, 2015, 40 CFR Parts 260 and 261, 80 FR 18777 (CL 230)

EPA SUMMARY: The Environmental Protection Agency is revising regulations associated with the comparable fuels exclusion and the gasification exclusion, which EPA originally issued under the Resource Conservation and Recovery Act. These revisions implement vacatur ordered by the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit), on June 27, 2014.

Differences in the draft state rule: No differences in the state rule. This federal rule is incorporated by reference at OAR 340-100-0002.

**Withdrawal of the Emission-Comparable Fuel Exclusion Under RCRA
June 15, 2010, 40 CFR Parts 261, 75 FR 33712 (CL 224)**

EPA SUMMARY: This final action withdraws the conditional exclusion from regulations promulgated on December 19, 2008, under subtitle C of the Resource Conservation and Recovery Act, for so-called Emission Comparable Fuel. These are fuels produced from hazardous secondary materials which, when burned in industrial boilers under specified conditions, generate emissions that are comparable to emissions from burning fuel oil in those boilers. EPA is withdrawing this conditional exclusion because the agency has concluded that ECF is more appropriately classified as a discarded material and regulated as a hazardous waste. This final rule does not address or affect the exclusions for comparable fuel and synthesis gas fuel.

Differences in the draft state rule: No differences in the state rule. This federal rule is incorporated by reference at OAR 340-100-0002.

These proposed rules add state requirements in addition to the federal requirements.

Federal rule title, date, Federal Register (FR) page number, EPA summary	Reason for amendment
Conditional Exclusions From Solid Waste and Hazardous Waste for Solvent-Contaminated Wipes July 31, 2013, 40 CFR Parts 260 and 261, 78 FR 46447 (CL 229)	
<p>EPA SUMMARY: The Environmental Protection Agency is publishing a final rule that modifies its hazardous waste management regulations for solvent-contaminated wipes under the Resource Conservation and Recovery Act. Specifically, this rule revises the definition of solid waste to conditionally exclude solvent contaminated wipes that are cleaned and reused and revises the definition of hazardous waste to conditionally exclude solvent-contaminated wipes that are disposed. The purpose of this final rule is to provide a consistent regulatory framework that is appropriate to the level of risk posed by solvent-contaminated wipes in a way that protects human health and the environment, while reducing overall compliance costs for industry, many of which are small businesses.</p> <p>Differences in the draft state rule: 1) The proposed state rule allows equivalent labeling as an alternate to the federal labeling requirement. The federal rule requires containers be labeled ‘Excluded Solvent-Contaminated Wipes,’ and the state rule adds, “or labeled with equivalent wording describing the contents of the container and recognizing the exclusion.”</p> <p>2) The second change requires discarded wipes be disposed of as solid waste at hazardous waste permitted treatment, storage, and disposal facilities or hazardous waste incinerators only, which the federal rule does not require. This change addresses expressed concerns about management of disposable wipes, and aligns with neighboring state regulations.</p>	<p>1) Increases flexibility in content identification</p> <p>2) To ensure safe disposal in Oregon, as not all municipal landfills are lined; aligns with nearby states</p>
Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities, and Other Eligible Academic Entities Formally Affiliated with Colleges and Universities December 1, 2008, 40 CFR Parts 261 and 262, 73 FR 72911 (CL 220)	

<p>EPA SUMMARY: The Environmental Protection Agency is finalizing an alternate set of generator requirements that apply to laboratories owned by eligible academic entities, as defined in this final rule. The rule provides a flexible and protective set of regulations that address the specific nature of hazardous waste generation and accumulation in laboratories at colleges and universities, as well as other eligible academic entities formally affiliated with colleges and universities. This final rule is optional. Colleges, universities, and other eligible academic entities formally affiliated with a college or university have the choice of managing hazardous wastes under the new alternative regulations as set forth in this final regulation or remaining subject to the existing generator regulations.</p> <p>Differences in the draft state rule: 1) The proposed state rule requires physically attaching container labels to the container. The federal rule only requires the label be “associated” with the container (for example, recorded in a computer spreadsheet). 2) The second change requires those who notify DEQ of their participation in the program to submit their completed Laboratory Management Plan at time of notification. The federal rule does not have this requirement. It requires entities make the LMP “available” to lab workers, students, and any others at the eligible academic entity who request it such as web posting or keeping a copy at each individual site. 3) The third change requires conditionally exempt generators who notify DEQ of their participation in the program to obtain an EPA/state identification number if they do not already have one, and 4) The last change requires annual reporting. The federal rule does not have these requirements.</p>	<p>1) To increase safety, content identification, and tracking of accumulation 2) LMP submission at opt-in increases efficiency 3) Ensures annual cleanouts do not count in generator status 4) aligns reporting with all other reporters</p>
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What alternatives did DEQ consider if any?

DEQ did not consider alternatives for three of the rules, as Oregon must adopt them to maintain Oregon’s authorization for the hazardous waste program. Those rules include the reuse portion of the wipes rule and the two comparable fuel rules.

DEQ did consider alternatives for several of the proposed rules, which are documented in the advisory committee meeting notes. Input from the advisory committee meetings of February, March, and April 2016 and additional research informed the final, proposed state amendments.

The proposed rule amendments will further protect the environment and the residents of Oregon by ensuring safe management of spent wipes in landfills, and increasing lab worker safety by attaching labels to containers. The proposed amendments will also increase flexibility in labeling spent wipes, increased efficiency in submitting completed lab plans at time of opt-in notification, and align all hazardous waste reporters to report annually.

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 state wide 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, or
- The rule or program is reasonably expected to have significant effects on:
 - Resources, objectives or areas identified in the statewide planning goals, or
 - Present or future land uses identified in acknowledged comprehensive plans

To determine whether the proposed rules involve programs or actions that affect land use, DEQ reviewed its Statewide Agency Coordination plan. The plan describes the DEQ programs determined to significantly affect land use. DEQ considers that its programs specifically relate to the following statewide goals:

Goal	Title
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 that these proposed rules do not affect land use under OAR 340-018-0030 or the DEQ's State Agency Coordination Program.

Stakeholder and public involvement

Advisory committee

DEQ convened the Hazardous Waste Phase II 2016 Rulemaking Advisory Committee. In convening this committee, DEQ selected members to reflect the range of entities the proposed rules affect, both directly and indirectly. DEQ endeavored to include members representing statewide geographical, regulated small businesses (with fewer than 50 employees), large businesses, environmental interests, and industry associations.

The committee's web page is located at: [Hazardous Waste Phase II Rulemaking](#)

The committee members:

Name	Affiliation	Representing
Michael Bernard	Boeing Portland	Large Oregon Businesses
Myron Burr	Siltronic Corporation	Oregon Associated Industries
Heath Foott	Bend Research	Pharmaceutical Manufacturing/Laboratories
Matt Hendrickson	University of Oregon	Academic Laboratories
Jim Houser	Hawthorne Auto Clinic, Inc.	Small Businesses
James Kincaid	Cable Huston LLP	Waste Management Oregon
Koreen Lail (alternate)	Siltronic Corporation	Oregon Associated Industries
Marjorie MartzEmerson	Pacific Northwest Pollution Prevention Resource Center	Environmental Advocates, Small Businesses
Audrey O'Brien	Dept. Environmental Quality	DEQ Materials Management Program
Geoffrey Tichenor	Stoel Rives LLP	Oregon Businesses

Meeting notifications

DEQ notified people about the advisory committee's activities by:

- Sending GovDelivery bulletins, a free e-mail subscription service, on Jan. 28, 2016, Feb. 26, 2016, and March 23, 2016, to the following lists:
 - Rulemaking, Hazardous Waste Permits, and Hazardous Waste Generator Annual Report for a total of 9076 subscribers, notifying of the advisory committee meetings and describing how to sign up to receive information about this rulemaking, and
 - Subscribers who signed up for the Resource Conservation and Recovery Act rulemaking notices (835).
- Adding advisory committee announcements to the [DEQ Calendar](#) of public meetings.

Committee discussions

In addition to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee also discussed and gave recommendations on the proposed rules.

DEQ documented the committee's recommendations in the approved meeting notes of Feb. 3, 2016, March 1, 2016, and April. 5, 2016, posted to DEQ's [Hazardous Waste Phase II 2016 Rulemaking Webpage](#). Below are the advisory committee's summarized recommendations for each of the proposed rules as approved in the April 5, 2016, meeting notes:

Wipes rule

The committee supported adopting the rule as it encourages recycling, requires no free liquids, minimizes pollution, and decreases mismanagement.

Reuse - Adopt and allow alternative equivalent wording for labeling.

Disposal – Adopt with amendments to address environmental risk.

Lab rules

Adopt rule with amendment to require submitting the laboratory management plan at time of DEQ notification to Opt-in. The committee supported adopting the lab rule since it gives eligible academic labs increased flexibility to manage wastes under an alternative and equivalent standard.

Coal rule

Supported adopting rule with no amendments.

Fuel rules

Supported adopting the federal rule withdrawal.

Post closure rule

Supported adopting permit application requirements only and not adopting the remainder parts of the rule as DEQ would not have a need to use them.

NPDES rule

Supported adopting rule with no amendments.

Below are the advisory committee's summarized recommendations as approved in the April 5, 2016, meeting notes for the two rules DEQ is not adopting at this time.

CO2 rule

Supported not adopting since Oregon law currently prohibits injecting hazardous materials into the ground. The committee noted it does not preclude a potential future adoption and does not take a stand on this activity.

2015 Definition of solid waste rule

Mandatory – Adopt with amendments (“immediately” definition; Div. 120 siting & setbacks). The committee did not recommend changing “contained” definition.

Optional – Conditional adoption, only if regulatory structure to regulate. Amendments: legal mechanism to regulate (tool or rule), change to solid waste rules if required, initial certification of verification at time of notification, annual reporting and on-going combination of recertification/verification and on-site inspections. The committee's preference is to keep oversight under the hazardous waste program.

EQC prior involvement

DEQ did not present additional information specific to this proposed rule revision.

Public notice and hearings

Public notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing on Nov. 15, 2016, by:

- Filing notice with the Oregon Secretary of State for publication in the December 2016 Oregon Bulletin,
- Notifying EPA by email,
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking; located at [Hazardous Waste Phase II 2016 Rulemaking](#),
- Emailing 17,658 interested parties on the following DEQ lists through GovDelivery:
 - Resource Conservation and Recovery Act Rulemaking (835 subscribers)
 - Hazardous Waste Generator Annual Report (56)
 - Hazardous Waste Training (6568)
 - Hazardous Waste Permits (2592)
 - Agency Rulemaking (6813)
 - Public Notices (794)
- Emailing the following key legislators as required under [ORS 183.335](#):
 - Representative Brad Witt, Chair, House Agriculture and Natural Resources Committee
 - Representative Jessica Vega Pederson, Chair, House Energy and Environment Committee
 - Senator Chris Edwards, Chair, Senate Environmental and Natural Resources Sub-Committee
- Emailing advisory committee members,
- Posting on Twitter and Facebook,
- Posting on the DEQ event calendar: [DEQ Calendar](#)

Request for other options

During the public comment period, DEQ requested public comment on whether to consider other options for achieving the rules' substantive goals while reducing the rules' negative economic impact on business. This document includes a summary of comments and DEQ responses.

Public hearing and comment

DEQ held one public hearing, and received one public comment. Later sections of this document include a summary of the comment, DEQ's response, and information on the commenter.

Presiding Officers' Record

Location:	DEQ Headquarters Office, Conference room 601
Date and time:	Dec. 21, 2016 at 3 p.m.
Presiding Officer:	Rich Duval, Senior Hazardous Waste Inspector, DEQ Eastern Region

The presiding officer convened the hearing, summarized procedures for the hearing, and explained that DEQ was recording the hearing. The presiding officer asked people who wanted to present verbal comments to sign the registration form 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 on how 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.

DEQ added all names, emails, and affiliations of hearing participants who presented verbal comments and DEQ's response in the commenter section of this report. There was no additional oral or written testimony or exhibits submitted at this public hearing.

Summary of comments and DEQ responses

For public comments received by the close of the public comment period

DEQ received only one verbal comment and no written comments. DEQ's response to the comment follows the comment summary. Original comments are on file with DEQ.

DEQ did not change the proposed rules in response to the comment.

Commenter Keri Bishop

Affiliation Oregon Health Sciences University

Proposed Rule Academic Laboratories Rules

Comment Summary

The primary concern is with the new lab rule and satellite accumulation areas that require hazardous waste determinations. How will DEQ handle this in a university-setting where student volunteers are not necessarily trained to make the hazardous waste determination?

Response

The new requirements of 40 Code of Federal Regulation 262.200 (Subpart K) eliminate what we normally think of as a satellite accumulation area in eligible academic laboratories. A Laboratory Management Plan developed by the entity will describe how the lab will manage "unwanted waste." The area of storage would include containers for similar unwanted material, such as flammable, oxidizer, heavy metal, reactive, peroxide former, toxic, and non-hazardous. This system would be set up by the lab's designated Trained Professional and Laboratory Workers (student, intern, undergraduate) would be trained to follow the plan and the lab's waste management activities. Subpart K increases the flexibility for laboratories to manage wastes under an alternative and equivalent standard of rules. It does require training for lab workers but only allows training for what their activities include.

Each eligible academic lab is required to notify DEQ (opt-in) to use the Subpart K rules, and develop and submit a Laboratory Management Plan to DEQ. This plan requires elements and descriptions provided by the eligible academic entity. The enforceable part of the plan must include the following information:

1. A description of best practices for container labeling and management including terms that will be used on the containers in the laboratory. For any term the entity wants to use, the term will have the same meaning and is subject to the same requirements as “unwanted material.” In this section the entity describes how the label will be attached to the container or if it will include all the labeling information on the label. This should also include where the complete container and material descriptive information will be kept; and
2. Procedures for regularly scheduled removals of unwanted material from the laboratory. The plan will indicate not to exceed the six months requirement or within 6 months of each container’s accumulation start date (rolling 6 month basis).

Part II section, as required in 40 CFR 262.214(b), describes:

1. Best practices for container labeling. This includes how the eligible academic entity will manage containers used for in-line collection of unwanted materials;
2. Best practices for providing training for laboratory workers and students commensurate with their duties;
3. Best practices for providing training to ensure safe on-site transfers of unwanted material and hazardous waste by trained professionals;
4. Best practices for removing unwanted material from the laboratory;
5. Best practices for making for hazardous waste determinations, including specifying duties of the individual performing the activity;
6. Best practices for laboratory cleanouts, including documentation; and
7. Procedures for emergency prevention.

Therefore, the eligible academic entity provides the procedures to ensure the safer management of unwanted material and hazardous waste for those conducting the work. With the storage area set up by the trained professional, the student or laboratory worker can look on the safety data sheet or plan document to determine where the unwanted material should be stored. If unable to determine storage, contact the Trained Professional.

Implementation

Notification

The proposed rules would become effective upon filing on approximately July 30, 2017. DEQ would notify affected parties by:

Compliance and enforcement

- Sending a GovDelivery notice to the same parties that received notice of the rulemaking
- Affected parties - This rule does not expand the number of regulated parties. DEQ will develop two factsheets for the Wipes and Academic Laboratories rules and make those available to the regulated community by GovDelivery, DEQ’s website, and in hazardous waste training classes on how to comply.

- DEQ staff – Will submit rules to EPA as a revision to the Oregon state authorized hazardous waste program.

Monitoring and reporting

- Affected parties – DEQ will provide technical assistance to potentially affected facilities by making them aware of the new federal requirements
- DEQ staff - Staff will review compliance through annual reporting and regulatory inspections.

Systems

- Website - DEQ will update its website with the amended regulations, adding two factsheets (Wipes/Labs).
- Database - No database changes required to support this rulemaking.
- Invoicing - No changes to the current system required to support this rulemaking.

Training

- Affected parties - DEQ will update its Hazardous Waste Basic trainings with amended regulations.

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 requires five-year review of OAR 340-102-0200 because it is a newly adopted rule.

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

- Adopt federal rules by reference; ORS 183.405(5)(b)
- Amend or repeal an existing rule; ORS 183.405(4)

Key to Identifying Changed Text:

~~Deleted Text~~

New/inserted text

~~Text deleted from one location~~ - and moved to another location

DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION 100
HAZARDOUS WASTE MANAGEMENT
Hazardous Waste Management System: General

340-100-0002

Adoption of United States Environmental Protection Agency Hazardous Waste and Used Oil Management Regulations

(1) Except as otherwise modified or specified by OAR 340, divisions 100 to 106, 109, 111, 113, 120, 124 and 142, the ~~Environmental Quality~~ Commission ~~or EQC~~ adopts by reference, and requires every person subject to ORS 466.005 to 466.080 and 466.090 to 466.215, to comply with the rules and regulations governing the management of hazardous waste, including its generation, transportation, treatment, storage, recycling and disposal, as the United States Environmental Protection Agency prescribes in 40 C.F.R. Parts 260 to 268, 270, 273 and Subpart A and Subpart B of Part 124, as enacted through June 30, ~~2014~~ 2015, except as modified below in sections (2), (3) and (4).

(2) The Commission~~EQC~~ expressly adopts only 40 C.F.R. § 270.14(a) and § 270.28 as amended in adoption of 63 Federal Register 56710 (c174), October 22, 1998.

(3) The Commission excludes from the rules adopted in Section (1) of this rule, and does not adopt by reference, 40 C.F.R. 260.2 and the amendments to 40 C.F.R. Parts 124, 260 to 268, 270 and 273 as enacted at:

(a) 63 Federal Register 56710-56735 (c174), October 22, 1998 (amendments to 40 C.F.R. § 264-265 and § 270(1)(c));

~~(b) 65 Federal Register 30886-30913 (c186), May 15, 2000;~~

~~(e)~~ 69 Federal Register 21737-21754 (c204), April 22, 2004;

~~(d)~~ 69 Federal Register 62217-62224 (c204.1), October 25, 2004;

~~(e)~~ 73 Federal Register 57-72 (c216), January 2, 2008;

~~(f)~~ 73 Federal Register 64668-64788 (c219), October 30, 2008;

~~(g) 73 Federal Register 72912-72960 (c220), December 1, 2008;~~

~~(h)~~ 73 Federal Register 77954-78017 (c221), December 19, 2008;

Item F 000023

~~(j) 75 Federal Register 79304-79308 (c226), December 20, 2010;~~

~~(k) 78 Federal Register 46448-46485 (c229), July 31, 2013; and~~

~~(l) 79 Federal Register 350-364 (c230), January 3, 2014; and~~

~~(h) 80 Federal Register 1694-1814 (c233), January 13, 2015.~~

(43) Except as otherwise modified or specified by OAR 340, division 111, the Commission adopts by reference, and requires every person subject to ORS 466.005 to 466.080 and 466.090 to 466.215, to comply with the rules and regulations governing the standards for managing used oil, the United States Environmental Protection Agency prescribes in 40 C.F.R. Part 279, enacted through July 30, 2003.

NOTE COMMENT: The Department uses the federal preamble accompanying the federal regulations and federal guidance as a basis for regulatory decision-making.

Stat. Auth.: ORS 465.009, ~~465.505~~, & 466.020-~~& 465.505~~

Stat. Implemented: ORS 465.003, 465.009, ~~465.505~~, 466.005, 466.075, & 466.105-~~& 465.505~~

Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 10-1987, f. & ef. 6-11-87; DEQ 23-1987, f. & ef. 12-16-87; DEQ 19-1988, f. & cert. ef. 7-13-88; DEQ 12-1989, f. & cert. ef. 6-12-89; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 24-1992, f. 10-23-92, cert. ef. 11-1-92; DEQ 11-1993, f. & cert. ef. 7-29-93; DEQ 6-1994, f. & cert. ef. 3-22-94; DEQ 31-1994(Temp), f. 12-6-94, cert. ef. 12-19-94; DEQ 11-1995, f. & cert. ef. 5-19-95; DEQ 12-1996, f. & cert. ef. 7-31-96; DEQ 14-1997, f. & cert. ef. 7-23-97; DEQ 11-1998, f. & cert. ef. 6-26-98; DEQ 26-1998(Temp), f. & cert. ef. 11-3-98 thru 3-19-99; DEQ 4-1999, f. & cert. ef. 3-19-99; DEQ 10-2000, f. & cert. ef. 7-21-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 13-2002, f. & cert. ef. 10-9-02; DEQ 13-2003, f. & cert. ef. 10-24-03; DEQ 8-2005, f. & cert. ef. 7-14-05; DEQ 2-2009, f. & cert. ef. 6-25-09; DEQ 5-2015, f. & cert. ef. 4-15-15

DIVISION 101 IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

340-101-0004

Exclusions

(1) Residue described in 40 C.F.R. 261.4(b)(9) is exempted from divisions 100-106 and 109.

(2) Dry cleaning wastewater subject to the requirements in OAR 340 division 124 is not excluded under 40 C.F.R. 261.4(a)(1)(i) and (ii).

(3) The phrase “or labeled with equivalent wording describing the contents of the container and recognizing the exclusion” is added to the end of the first sentence in 40 C.F.R. 261.4(a)(26)(i) and 40 C.F.R. 261.4(b)(18)(i).

(4) The phrase “To a municipal solid waste landfill regulated under 40 C.F.R. part 258, including 40 C.F.R. 258.40, or” is deleted from 40 C.F.R. 261.4(b)(18)(vi)(A).

(3) The phrase “For a municipal waste combustor or other combustion facility regulated under section 129 of the Clean Air Act or” in 40 C.F.R. 261.4(b)(18)(vi)(B) is deleted.

Stat. Auth.: ORS 192, 465.009, 466.015, 466.020, 466.075, 466.090, & 466.180, 468.020, & 646
Stats. Implemented: ORS 466.015, 466.075, & 466.195
Hist.: DEQ 7-1984, f. & ef. 4-26-84; Superseded by DEQ 8-1985; DEQ 8-1985, f. & ef. 7-25-85;
DEQ 6-1994, f. & cert. ef. 3-22-94; DEQ 4-1999, f. & cert. ef. 3-19-99; DEQ 10-2000, f. & cert.
ef. 7-21-00; DEQ 13-2003, f. & cert. ef. 10-24-03

DIVISION 102

STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

340-102-0200

Academic Laboratories

(1) The reporting provisions of 40 C.F.R 262.41 are deleted and replaced by OAR 340-102-0041(2).

(2) The phrase “associated with the container” regulated under 40 C.F.R. 262.206(a)(2), § 262.208(d)(1)(i), § 262.208(d)(2)(i), § 262.210(b)(2), § 262.211(e)(2), § 262.212(e)(2), and § 262.214(a)(1)(ii) is deleted.

(3) A Department or EPA Identification Number is required for all academic entities who opt into Subpart K by the provisions of OAR 340-102-0012 replacing the requirements of 40 C.F.R. 262.203(a);

(4) When notifying the Department as 40 C.F.R. 262.203(a) requires, to opt-in to Subpart K, an eligible academic entity is required to submit their completed Laboratory Management Plan as defined in 40 C.F.R. 262.214.

Stat. Auth.: ORS 183, 192, 459, 465.009, 466.015, 466.020, 466.075, 466.090, 466.105, 466.165, 466.195, 468, & 646
Stats. Implemented: ORS 466.075

DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION 100
HAZARDOUS WASTE MANAGEMENT
Hazardous Waste Management System: General

340-100-0002

Adoption of United States Environmental Protection Agency Hazardous Waste and Used Oil Management Regulations

(1) Except as otherwise modified or specified by OAR 340, divisions 100 to 106, 109, 111, 113, 120, 124 and 142, the Commission adopts by reference, and requires every person subject to ORS 466.005 to 466.080 and 466.090 to 466.215, to comply with the rules and regulations governing the management of hazardous waste, including its generation, transportation, treatment, storage, recycling and disposal, as the United States Environmental Protection Agency prescribes in 40 C.F.R. Parts 260 to 268, 270, 273 and Subpart A and Subpart B of Part 124, as enacted through June 30, 2015, except as modified below in sections (2), (3) and (4).

(2) The Commission expressly adopts only 40 C.F.R. § 270.14(a) and § 270.28 as amended in adoption of 63 Federal Register 56710 (c174), October 22, 1998.

(3) The Commission excludes from the rules adopted in Section (1) of this rule, and does not adopt by reference, 40 C.F.R. 260.2 and the amendments to 40 C.F.R. Parts 124, 260 to 268, 270 and 273 as enacted at:

(a) 63 Federal Register 56710-56735 (c174), October 22, 1998 (amendments to 40 C.F.R. § 264-265 and § 270(1)(c));

(b) 69 Federal Register 21737-21754 (c204), April 22, 2004;

(c) 69 Federal Register 62217-62224 (c204.1), October 25, 2004;

(d) 73 Federal Register 57-72 (c216), January 2, 2008;

(e) 73 Federal Register 64668-64788 (c219), October 30, 2008;

(f) 73 Federal Register 77954-78017 (c221), December 19, 2008;

(g) 79 Federal Register 350-364 (c230), January 3, 2014; and

(h) 80 Federal Register 1694-1814 (c233), January 13, 2015.

(4) Except as otherwise modified or specified by OAR 340, division 111, the Commission adopts by reference, and requires every person subject to ORS 466.005 to 466.080 and 466.090 to 466.215, to comply with the rules and regulations governing the standards for managing used oil, the United States Environmental Protection Agency prescribes in 40 C.F.R. Part 279, enacted through July 30, 2003.

NOTE: The Department uses the federal preamble accompanying the federal regulations and federal guidance as a basis for regulatory decision-making. Item F 000026

Hist.: DEQ 8-1985, f. & ef. 7-25-85; DEQ 10-1987, f. & ef. 6-11-87; DEQ 23-1987, f. & ef. 12-16-87; DEQ 19-1988, f. & cert. ef. 7-13-88; DEQ 12-1989, f. & cert. ef. 6-12-89; DEQ 4-1991, f. & cert. ef. 3-15-91 (and corrected 6-20-91); DEQ 24-1992, f. 10-23-92, cert. ef. 11-1-92; DEQ 11-1993, f. & cert. ef. 7-29-93; DEQ 6-1994, f. & cert. ef. 3-22-94; DEQ 31-1994(Temp), f. 12-6-94, cert. ef. 12-19-94; DEQ 11-1995, f. & cert. ef. 5-19-95; DEQ 12-1996, f. & cert. ef. 7-31-96; DEQ 14-1997, f. & cert. ef. 7-23-97; DEQ 11-1998, f. & cert. ef. 6-26-98; DEQ 26-1998(Temp), f. & cert. ef. 11-3-98 thru 3-19-99; DEQ 4-1999, f. & cert. ef. 3-19-99; DEQ 10-2000, f. & cert. ef. 7-21-00; DEQ 6-2001, f. 6-18-01, cert. ef. 7-1-01; DEQ 13-2002, f. & cert. ef. 10-9-02; DEQ 13-2003, f. & cert. ef. 10-24-03; DEQ 8-2005, f. & cert. ef. 7-14-05; DEQ 2-2009, f. & cert. ef. 6-25-09; DEQ 5-2015, f. & cert. ef. 4-15-15

DIVISION 101 IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

340-101-0004

Exclusions

- (1) Residue described in 40 C.F.R. 261.4(b)(9) is exempted from divisions 100-106 and 109.
- (2) Dry cleaning wastewater subject to the requirements in OAR 340 division 124 is not excluded under 40 C.F.R. 261.4(a)(1)(i) and (ii).
- (3) The phrase “or labeled with equivalent wording describing the contents of the container and recognizing the exclusion” is added to the end of the first sentence in 40 C.F.R. 261.4(a)(26)(i) and 40 C.F.R. 261.4(b)(18)(i).
- (4) The phrase “To a municipal solid waste landfill regulated under 40 C.F.R. part 258, including 40 C.F.R. 258.40, or” is deleted from 40 C.F.R. 261.4(b)(18)(vi)(A).
- (5) The phrase “To a municipal waste combustor or other combustion facility regulated under section 129 of the Clean Air Act or” in 40 C.F.R. 261.4(b)(18)(vi)(B) is deleted.

Stat. Auth.: ORS 192, 465.009, 466.015, 466.020, 466.075, 466.090, 466.180, 468.020, & 646

Stats. Implemented: ORS 466.015, 466.075, & 466.195

Hist.: DEQ 7-1984, f. & ef. 4-26-84; Superseded by DEQ 8-1985; DEQ 8-1985, f. & ef. 7-25-85; DEQ 6-1994, f. & cert. ef. 3-22-94; DEQ 4-1999, f. & cert. ef. 3-19-99; DEQ 10-2000, f. & cert. ef. 7-21-00; DEQ 13-2003, f. & cert. ef. 10-24-03

DIVISION 102 STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

340-102-0200

Academic Laboratories

- (1) The reporting provisions of 40 C.F.R. 262.41 are deleted and replaced by OAR 340-102-0041(2).

(2) The phrase “associated with the container” regulated under 40 C.F.R. 262.206(a)(2), § 262.208(d)(1)(i), § 262.208(d)(2)(i), § 262.210(b)(2), § 262.211(e)(2), § 262.212(e)(2), and § 262.214(a)(1)(ii) is deleted.

(3) A Department or EPA Identification Number is required for all academic entities who opt into Subpart K by the provisions of OAR 340-102-0012 replacing the requirements of 40 C.F.R. 262.203(a);

(4) When notifying the Department as 40 C.F.R. 262.203(a) requires, to opt-in to Subpart K, an eligible academic entity is required to submit their completed Laboratory Management Plan as defined in 40 C.F.R. 262.214.

Stat. Auth.: ORS 183, 192, 459, 465.009, 466.015, 466.020, 466.075, 466.090, 466.105, 466.165, 466.195, 468, & 646

Stats. Implemented: ORS 466.075



DEQ Hazardous Waste Advisory Committee Recommendations and Proposed Rule Comparison

*As summarized in the approved Hazardous Waste Program Rulemaking Advisory Committee Meeting Notes of February 3, 2016, March 1, 2016 and April 5, 2016 as posted on the Rulemaking website.

Wipes Rule	
Advisory Committee Recommendations	Proposed state rule amendments
DEQ staff presented four options to the advisory committee: <ol style="list-style-type: none">1. Adopt reuse, postpone disposal until a mechanism is in place to address environmental risks (landfill type, solid waste permit, transportation, etc.);2. Adopt entirely, but require wipes to go to a treatment, storage, disposal facility as non-hazardous waste [or HW combustor as rule specifies]3. Adopt reuse only to encourage recycling; and4. Adopt rule entirely as is.	In considering the advisory committee recommendations and further discussion with program management, DEQ chose option 2 for this rule's proposed adoption with listed amendments below.
Advisory Committee Recommendations*	Proposed state rule amendments
<ol style="list-style-type: none">1. Allow inclusion of additional EPA-equivalent wording for container labeling2. Source separation (at generator facility, during transportation, at transfer stations)3. Not allow compaction (during transportation, at transfer stations, or at landfills)4. Contained in fiber, plastic or rigid cardboard or equivalent (in addition to sealed bag as specified by rule)5. DEQ authorizing receiving facilities (combustor or landfill) <p><i>The committee supports adopting the rule as it encourages recycling, requires no free liquids, minimizes pollution, and decreases mismanagement. Reuse: Adopt and allow alternative equivalent wording for labeling. Disposal: Adopt with amendments to address environmental risk.</i></p>	<ol style="list-style-type: none">1. Allows equivalent labeling as an alternate to the federal labeling requirements. The federal rule requires containers be labeled 'Excluded Solvent-Contaminated Wipes,' and the state rule adds "or labeled with equivalent wording describing the contents of the container and recognizing the exclusion."2-5 Requires discarded wipes be disposed of as solid waste at hazardous waste permitted treatment, storage, and disposal facilities or hazardous waste incinerators only, which federal rule does not require. <p><i>This change addresses expressed concerns about management of disposable wipes, and aligns with neighboring state regulations. Note: Disposal in Subtitle D landfills would require rule changes that were outside the scope of this rulemaking. Note: Proposed rule does not preclude disposal as hazardous waste at a treatment, storage, and disposal or TSD facility.</i></p>
Lab Rules	
Advisory Committee Recommendations*	Proposed state rule amendments
<ol style="list-style-type: none">1. Amend to require labs to submit their lab management plan when notifying DEQ of opt-in. <p><i>The committee supports adopting the Lab rule since it gives eligible academic labs increased flexibility to manage wastes under an alternative and equivalent standard.</i></p>	<ol style="list-style-type: none">1. Requires eligible labs who notify DEQ of their participation in the program to submit their completed Laboratory Management Plan(s) at time of notification. <i>The federal rule does not have this requirement, and requires entities to make the plan 'available' to lab workers, students, and any others at the eligible academic entity who request it such as a web posting.</i>2. Requires labeling be affixed to laboratory waste accumulation containers. The federal rule only requires accumulation information be "associated" with the container such as a spreadsheet.3. Requires conditionally exempt generators who notify DEQ of their participation in the program to obtain an EPA/state identification number if they do not already have one.4. Requires annual reporting.

Post Closure Rule

Advisory Committee Recommendations*	Proposed state rule amendments
1. Supports adopting permit application requirements only, and not adopting the remainder as it would not be used by DEQ. <i>The committee supports adopting permit application requirements only and not adopting the remainder parts of the rule as DEQ would not have a need to use it.</i>	1. Proposed to expressly adopt only the permit Part B information submission requirements for facilities obtaining or renewing post-closure permits. The program determined only part B (40 CFR Parts 270.14(a) and 270.28) amendments applied to current work while the rest of the rule does not apply to the program and would not be adopted at this time.
Coal Rule	
Advisory Committee Recommendations*	Proposed state rule amendments
1. Supports adoption rule with no amendments. <i>The committee supports adopting rule with no amendments.</i>	1. Adopt without state amendment. <i>Propose adoption by reference into OAR 340-100-002(1).</i>
NPDES Rule	
Advisory Committee Recommendations*	Proposed state rule amendments
1. Supports adopting rule with no amendments. <i>The committee supports adopting rule with no amendments.</i>	1. Adopt without state amendment. <i>Propose adoption by reference into OAR 340-100-002(1).</i>
Fuel Rules	
Advisory Committee Recommendations*	Proposed state rule amendments
1. Supports adopting the federal rule withdrawal. <i>The committee supports adopting rule with no amendments.</i>	1. Adopt without state amendment. <i>Propose adoption by reference into OAR 340-100-002(1).</i>

DEQ considered the following federal regulations for state adoption, and is choosing not to propose adoption at this time to allow further considerations for human health and the environment:

DSW Rule

Advisory Committee Recommendations*	Propose postponing adoption
1. Mandatory – Adopt with amendments (“immediately”, Div 120 siting & setbacks). Committee did not recommend changing “contained” definition. 2. Optional – Conditional adoption, only if regulatory structure to regulate. Amendments: legal mechanism to regulate (tool or rule), change to solid waste if required, initial certification of verification at time of notification, annual reporting and on-going combination of recertification/verification and on-site inspections. The committee’s preference is to keep oversight under the hazardous waste program. <i>The committee supports adopting the federal rule with the following amendments: Mandatory – With amendments (“immediately”, Div 120 siting & setbacks). Committee did not recommend changing “contained” definition. Optional – Conditional adoption, only if regulatory structure to regulate. Amendments: legal mechanism to regulate (tool or rule), change to solid waste if required, initial certification of verification at time of notification, annual reporting and on-going combination of recertification/verification and on-site inspections. The committee’s preference is to keep oversight under the hazardous waste program.</i>	Rule is unique in allowing eligible materials formerly regulated as hazardous waste to become non-solid waste if reclaimed or recycled. While Oregon actively encourages reuse, reclaim and recycling recognizing the need and benefits in resource conservation, reduced greenhouse gas and costs for businesses, DEQ wants to ensure environmental protective measures are in place as recommended by the hazardous waste rules advisory committee. DEQ wants to take additional time to take the advisory committee input and develop protective measures before adopting this rule.

CO2 Rule

Advisory Committee Recommendations*	Propose postpone adoption
<p>1. Supports not adopting, since Oregon law currently prohibits injection of hazardous materials into the ground. The committee noted it does not preclude a potential future adoption, and does not take a stand on this activity.</p> <p><i>The committee supports not adopting, since Oregon law currently prohibits injection of hazardous materials into the ground. The committee noted it does not preclude a potential future adoption, and does not take a stand on this activity.</i></p>	<p>Oregon law currently prohibits adopting this rule by not allowing class VI underground injection wells or injecting hazardous waste into the ground under the water quality regulations. DEQ would need to consider amending current law if the long term benefits of geological sequestration benefits Oregon.</p>