



Oregon Department of Environmental Quality  
Feb. 3, 2016  
EQC meeting

**Item C, Action item: Solid Waste Fee and Grants**

**This document contains:**

- EQC Staff Report
- Attachment A1: Draft Rules (all edits displayed)
- Attachment A2: Draft Rules (final, clean version)

## DEQ recommendation to the EQC

DEQ recommends that the Environmental Quality Commission adopt the proposed amendments to OAR 340-083 and 340-097 in attachment A1.

## Overview

### Short summary

DEQ proposes to:

- Increase the per-ton solid waste disposal permit and tipping fees to adequately fund implementation of [\*Materials Management in Oregon: 2050 Vision and Framework for Action\*](#), including oversight of permitted solid waste disposal facilities and reuse, waste prevention and recovery, toxic reduction, product stewardship and other work to reduce impacts of materials use;
- Apply tipping fees and orphan site fees to construction/demolition and tire landfills;
- Define a mechanism for reimbursing a portion of the tipping fee increase to distressed counties;
- Update solid waste planning and recycling (materials management) grant rules to expand allowed uses for grant funds; allow businesses, non-profits and other entities as well as local governments to receive grant awards; and to conform to other statutory changes.

These fees were last increased in 1994.

### Brief history

In 2011, DEQ convened a workgroup to help develop a long-term vision and framework for responsible materials management in Oregon. The Oregon Environmental Quality Commission adopted the resulting *Materials Management in Oregon: 2050 Vision and Framework for Action* as Oregon's State Integrated Resource and Solid Waste Management Plan. This plan guides statewide policy. The *2050 Vision and Framework for Action* calls on Oregonians to address the impacts of materials throughout materials' full life cycles, from design and production through distribution and use and end-of-life management. More importantly, the vision and framework call on Oregonians to

take actions across the full life cycle to reduce those impacts. This approach will guide more effective decision-making and help achieve the best environmental results at the lowest cost to society.

Beginning in 2013, DEQ convened a second stakeholder workgroup process and conducted extensive outreach with other stakeholders to help develop a comprehensive proposal to provide stable funding for the materials management program. That proposal was adopted as Senate Bill 245 and signed into law on July 6, 2015. Senate Bill 245, along with DEQ's legislatively-approved budget, authorizes the EQC to increase per-ton solid waste disposal permit and tipping fees as proposed in this rulemaking. Combined, these fee changes will allow DEQ to avoid cuts in facility oversight and permitting, including groundwater monitoring and complaint response; restore services that were recently cut, including grants and household hazardous waste services; continue other priority programs; and introduce several new services. DEQ will reimburse economically distressed counties a portion of the tipping fee increases.

#### Regulated parties

The proposed rules affect all businesses, agencies, local governments and other entities that have solid waste permits and pay solid waste permit or tipping fees.

#### Request for other options

During the public comment period, DEQ requested public comment on whether to consider other options for achieving the rule's substantive goals while reducing the rules' negative economic impact on business.

## Statement of need

1. Solid Waste Per-ton Permit Compliance and Tipping Fees	
Materials management program revenue comes from permit and tipping fees assessed on tons of solid waste disposed in Oregon. Revenue has declined sharply since 2008 with declines in disposal. At the same time, operating costs have increased and these fees have not changed since 1994.	
What need would the proposed rule address?	How would the proposed rule address the need?
Without fee increases, DEQ would have to continue to cut staff and programs. The proposed permit fee increases would fund DEQ's facility oversight and permitting work at current levels. The proposed tipping fee increases would fund restoration of services that were cut, including grants and household hazardous waste services; the continuation of current priority programs; and the introduction of several important new services.	<p>The proposed rules would:</p> <ul style="list-style-type: none"><li>• Increase all per-ton permit compliance fees to \$0.58/ton to fund solid waste permit activities at current levels beginning July 1, 2016. Currently municipal landfills pay \$0.30/ton, but some energy recovery facilities, conversion technology facilities, and industrial landfills pay less.</li><li>• Increase the tipping fees for disposal facilities receiving domestic solid waste from \$0.81/ton to \$1.11/ton beginning April 1, 2016, through</li></ul>

	<p>March 31, 2019, and to \$1.18/ton beginning April 1, 2019.</p> <ul style="list-style-type: none"> <li>Extend the tipping fee and the orphan site fee to construction and demolition and tire landfills beginning April 1, 2019.</li> </ul>
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## 2. Distressed County Rebate

Because of economic concerns about the tipping fee increase in some counties, Senate Bill 245 requires DEQ to reimburse a portion of the tipping fee increase to the nine most economically distressed counties each year, determined by the Business Oregon distressed county index.

What need would the proposed rule address?	How would the proposed rule address the need?
The partial reimbursement of the tipping fee increase would reduce the impact of that increase on people in economically distressed counties and would satisfy the requirements of the law to provide such reimbursement.	The proposed rules would define the mechanism for reimbursing a portion of the tipping fee increase for the most economically distressed counties each year. Rebates of up to \$0.28 per ton of waste disposed would be provided.

## 3. Materials Management Grants

For a number of years DEQ awarded grants to local governments for recycling and waste prevention projects. Grants were funded by solid waste disposal tipping fees. Before Senate Bill 245's enactment, the law authorized DEQ to award grants only to local governments, which could contract with other public or private entities to implement grant-funded projects.

What need would the proposed rule address?	How would the proposed rule address the need?
DEQ has not had sufficient tipping fee revenue to award solid waste grants since 2009. Grants play an important role in strengthening local government programs and supporting partners in collaborative materials management initiatives.	The additional revenue from the proposed tipping fee increase would allow DEQ to restore the materials management grant program and award grants for waste reduction, reuse, recycling, waste recovery, materials management planning, household hazardous waste facilities and other projects to reduce the environmental and human health impacts of materials at all stages of their life cycles.
The current rules allow DEQ to award grants to local governments only. Other organizations must partner with a local government to receive grant funds. Requiring this pass-through has been inefficient and burdensome for local governments and their partners.	The proposed rules would allow DEQ to award grants directly to any "person" as defined in ORS 459.005, which includes the state or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate, or any other legal entity.
The current rules don't include the requirement in Senate Bill 245 that, when awarding grants, DEQ give preference for programs that reduce waste generation and go beyond statutory requirements.	The proposed rules would include the required preference.

How will DEQ know the rule has addressed the needs stated above?

DEQ will know if the proposed rules have addressed the needs above if:

- Solid waste permit fees fully fund solid waste facility oversight activities at current levels as soon as permit fee revenue increases.
- Solid waste tipping fees fund other high-priority projects to implement Oregon's *2050 Vision* for materials management, including grants.
- Public and private entities receive grants without pass-through from local governments.
- The nine most distressed counties annually receive a partial rebate of any increase in solid waste tipping above current fees.

## Rules affected, authorities, supporting documents

Lead division

Environmental Solutions

Program or activity

Materials Management

Chapter 340 action

Adopt OAR      340-083-0500, 340-083-0510, 340-083-0520, 340-083-0530

Amend OAR      340-083-0010, 340-083-0020, 340-083-0030, 340-083-0040, 340-083-0050,  
340-083-0070, 340-083-0080, 340-083-0090, 340-083-0100, 340-097-0001,  
340-097-0110, 340-097-0120

Statutory authority

ORS 45A.025, 459.045, 459.235, 459.236, 459A.025, 459A.100 - 459A.120, 468.020, 468.065

Other authority

Chapter 662, Oregon Laws 2015

Statute implemented

ORS 459.235, 459.236, 459A.110, 459A.115, 459A.120

Legislation

Senate Bill 245 (Chapter 662, Oregon Laws 2015)

Documents relied on for rulemaking      ORS 183.335(2)(b)(C)

Document title	Document location
Materials Management in Oregon: 2050 Vision and Framework for Action	<a href="#">Materials Management in Oregon</a>
Oregon Senate Bill 245	<a href="#">Oregon Senate Bill 245</a>
Business Oregon "Distressed Areas in Oregon" and related rules	<a href="#">Business Oregon "Distressed Areas in Oregon" and related rules</a>

## Fee Analysis

The Environmental Quality Commission's adoption of the proposed rules would increase existing fees.

### Brief description of proposed fees

Senate Bill 245, passed by the Oregon Legislature in 2015, authorizes the Environmental Quality Commission to do the following:

- Increase the solid waste disposal tipping fee charged to municipal landfills, energy recovery facilities, solid waste treatment facilities and waste exporters from \$0.81 per ton to \$1.11 per ton, beginning April 1, 2016, through March 31, 2019, and to \$1.18/ton beginning April 1, 2019.
- Increase the per-ton permit fee from a combined maximum of \$0.30 per ton to \$0.58 per ton, beginning July 1, 2016.
- Extend the solid waste disposal tipping fee and the orphan site fee to demolition landfills and tire landfills, beginning April 1, 2019.
- Define a mechanism for reimbursing a portion of the tipping fee increase to the nine most economically distressed counties each year.

### Reasons

The proposed fee increases will provide stable funding for DEQ's Materials Management Program. They also affirm DEQ's authority to implement the *2050 Vision and Framework for Action* for managing materials in Oregon to reduce environmental and human health impact at all stages of their life cycles.

This proposal includes increasing the per-ton permit fee to fully fund the cost of oversight of solid waste disposal facilities, and increasing the per-ton disposal tipping fee to restore services that were recently cut, including grants and household hazardous waste services; continue current priority programs; and introduce several new, important services to reduce impacts of materials.

### Fee proposal alternatives considered

While developing Senate Bill 245, DEQ and an advisory workgroup considered a number of different funding options. These included: fees on solid waste collection services, materials used as alternative daily cover, materials recovered for recycling, composting feedstocks, and unredeemed deposits; advanced disposal or recovery fees; and a percentage of revenue fee model. These options were narrowed to the proposed fee changes during the development and adoption of Senate Bill 245. The proposed rules implement the fee changes in Senate Bill 245 as enacted, and DEQ's budget approved by the legislature. SB 245 also directs DEQ to report to the Legislature by Oct. 31, 2022, on other options for sustainable funding of the program.

### Fee payers

Approximately 35 businesses, agencies, local governments and other entities hold solid waste permits for landfills, energy recovery facilities, solid waste treatment facilities, or conversion technology facilities, or export waste out of state for disposal and pay permit compliance fees or tipping fees affected by this rulemaking.

## Affected party involvement in fee-setting process

DEQ held two advisory committee meetings in August and September of 2015 to obtain input from affected stakeholders. In addition, DEQ developed Senate Bill 245, which authorizes the proposed fee changes, with extensive input from a workgroup and subgroups involving more than 100 stakeholders during 22 meetings over 14 months. DEQ also held more than 30 additional meetings with local officials in almost all of Oregon's 36 counties and other stakeholders to further shape the legislation.

## Summary of impacts

Most landfills or energy recovery facilities will pass DEQ fees on to their customers in the form of higher disposal prices, although there could be a lag in time before they adjust their prices. Solid waste collection companies will then pass these higher disposal fees through to their collection customers. Most solid waste collection companies have exclusive franchises with cities or counties to collect waste from households and businesses within specified geographic areas. The cities and counties usually set the rates that the collection companies are allowed to charge for their services, but will raise these rates based on changes in disposal costs. Thus, the increase in fees is eventually born by the customers of the solid waste collection companies and the other customers of the landfills.

For households, DEQ estimates that the ultimate impact of proposed per-ton permit and tipping fees on monthly rates for basic weekly garbage collection service will be an increase of four to seven cents. Commercial customers would also see relatively small increases in garbage collection rates. In the six most populated counties in Oregon, businesses and individuals who self-haul their own waste to disposal sites currently pay between \$50.75 (Jackson County) to \$118.33 (Portland Metro), so an increase of \$0.65 in total per-ton permit and tipping fees would raise total disposal costs by 0.5 percent, to 1.3 percent.

Thirteen industrial and sludge facilities have permits to dispose of their own waste. Currently they pay a combined total of \$34,900 in permit fees per year (maximum \$8,650, average \$2,685). Following implementation of the rule, they are expected to pay a combined total of \$92,500 in permit fees per year (maximum \$23,900, average \$7,110). These 13 facilities do not pay tipping fees.

## Fee payer agreement with fee proposal

Industry, trade and local government groups that represent many of the fee payers either supported or did not oppose the fee increase during the legislative process.

## Links to supporting documents for proposed fees

Document title	Document location
Materials Management in Oregon: 2050 Vision and Framework for Action	<a href="#">Materials Management in Oregon</a>
Oregon Senate Bill 245	<a href="#">Oregon Senate Bill 245</a>

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

DEQ's proposed fee increases are based on a proposed service level necessary to implement the highest-priority actions contained in *Materials Management in Oregon: 2050 Vision and Framework for Action*. This proposal was the subject of extensive discussions with affected parties and fee payers, as discussed above. It included an implementation ramp-up with staff and services being added beginning in the 2015-17 biennium and continuing through the next two biennia. The legislature approved the proposed fee increases as well as the increase in services during the 2015-17 biennium.

Based on updated projections of disposal tonnage, which affect the amount of revenue generated by these per-ton fees, current fees will sustain the program only through the end of the current biennium. At the beginning of the 2017-19 biennium, DEQ would be required to eliminate all new services, and make cuts to existing (pre-SB 245) services, or else would run out of funds.

This program is entirely supported by fees. Fees were last increased in 1994.

How long will the proposed fees sustain the program?

The fees are per-ton fees on waste disposed of in or from Oregon. Waste disposal tonnage can vary from year to year, depending on larger economic conditions, waste imports from other states, the effectiveness of waste recovery programs, and even weather. Based on DEQ's current projections of future waste disposal quantities, DEQ expects that the annual revenue from the proposed fees would sustain the program, including proposed restored and new services, through June 2021.

#### Transactions and revenue

The number of transactions in the tables below includes per-ton permitting fees assessed to permit holders, and per-ton disposal tipping fee assessed to disposal sites.

#### Current Fiscal Year 2016

Number of transactions	Number of Fee Payers	Impact on revenue (+/-)	Total revenue (+/-)
135	35	\$0	\$6,460,000

#### Future Budget Projections<sup>1</sup>

Fiscal Year	Number of transactions	Number of Fee Payers	Impact on revenue (+/-)	Total revenue (+/-)
2017	135	35	\$3,600,000	\$10,080,000
2018	135	35	\$3,610,000	\$10,110,000
2019	135	35	\$3,620,000	\$10,140,000

<sup>1</sup>Assumptions: There will be little or no change in the number of permit holders as the number of facilities closing will balance or exceed the number of new facilities. The fee-payer mix is also not expected to change.



## Fee schedule

Current and Proposed Fees			
Landfills, incinerators, and solid waste treatment facilities receiving mixed domestic solid waste			
Per-Ton Fee	Current	July 2016	July 2019
Tipping Fee*	\$0.81	\$1.11	\$1.18
Permit Fee(s)	\$0.30	\$0.58	\$0.58
Orphan Site Fee	\$0.13	\$0.13	\$0.13
<b>Total</b>	<b>\$1.24</b>	<b>\$1.82</b>	<b>\$1.89</b>
Construction and demolition and tire landfills			
Per-Ton Fee	Current	July 2016	July 2019
Tipping Fee*	\$0.00	\$0.00	\$1.18
Permit Fee(s)	\$0.30	\$0.58	\$0.58
Orphan Site Fee	\$0.00	\$0.00	\$0.13
<b>Total</b>	<b>\$0.30</b>	<b>\$0.58</b>	<b>\$1.89</b>
Energy recovery facilities receiving mixed domestic solid waste**			
Per-Ton Fee	Current	July 2016	July 2019
Tipping Fee*	\$0.81	\$1.11	\$1.18
Permit Fee(s)**	\$0.22	\$0.58	\$0.58
Orphan Site Fee	\$0.13	\$0.13	\$0.13
<b>Total</b>	<b>\$1.16</b>	<b>\$1.82</b>	<b>\$1.89</b>
Industrial landfills receiving waste from other entities			
Per-Ton Fee	Current	July 2016	July 2019
Tipping Fee*	\$0.00	\$0.00	\$0.00
Permit Fee(s)	\$0.30	\$0.58	\$0.58
Orphan Site Fee	\$0.00	\$0.00	\$0.00
<b>Total</b>	<b>\$0.30</b>	<b>\$0.58</b>	<b>\$0.58</b>
Industrial captive landfills			
Per-Ton Fee	Current	July 2016	July 2019
Tipping Fee*	\$0.00	\$0.00	\$0.00
Permit Fee	\$0.21	\$0.58	\$0.58
Orphan Site Fee	\$0.00	\$0.00	\$0.00
<b>Total</b>	<b>\$0.21</b>	<b>\$0.58</b>	<b>\$0.58</b>

\*No tipping fee is paid on solid waste used for alternative daily cover

\*\*Proposed fees for conversion technology facilities are the same as for energy recovery facilities but current permit fees for conversion technology facilities total \$0.19, not \$0.22. For both types of facilities, waste entering the facility would be charged per-ton fees only a single time and there would be not subsequent fees on the ash or the residue that is sent to another facility for final disposal.



## Statement of fiscal and economic impact

### Fiscal and Economic Impact

An increase in solid waste per-ton permit and tipping fees would affect approximately 35 permit holders and solid waste exporters directly. The change would increase program revenue by approximately \$3,600,000 per year starting in fiscal year 2017 through fiscal year 2019.

### Statement of Cost of Compliance

#### Impacts on federal and state agencies, local government and the public

##### Federal and state agencies

No federal or state agencies hold solid waste permits.

##### DEQ

DEQ has no facilities that require a solid waste permit. The proposed per-ton permit and tipping fee increases would affect DEQ directly by funding seven new full-time equivalent positions and would allow DEQ and collaborators to provide priority program services. Increases in permit and tipping fees would increase garbage collection costs DEQ pays directly or indirectly. These fee increases could also affect DEQ indirectly if businesses change the price of goods and services to offset any other increased costs from paying higher fees.

##### Local governments

Fourteen local governments own operating landfills and one owns a sludge treatment facility. The landfills would be affected by the tipping fee increase from \$0.81/ton to \$1.18/ton and per-ton permit compliance fee increase from \$0.30/ton to \$0.58/ton. The sludge treatment facility would be affected only by the permit compliance fee increase. Most of the landfills receive waste from the public and charge disposal fees to the public ranging from \$28.50 per ton up to at least \$75.55 per ton. The proposed increase of \$0.65 in permit and tipping fees is equal to an increase of between less than 1 percent up to 2.3 percent of disposal costs. Increases in permit and tipping fees would increase garbage collection costs paid directly or indirectly by local governments. These fee increases could also affect them indirectly if businesses change the price of goods and services to offset any other increased costs from paying higher fees.

##### Public

The per-ton permitting and tipping fees are a very small portion of overall garbage rates. The proposed increases would likely increase average monthly garbage rates for households with basic garbage service by four to seven cents per household. These fee increases could affect the public indirectly if businesses change the price of goods and services to offset any other increased costs from paying higher fees.

## Large businesses - businesses with more than 50 employees

Direct Impacts Five large businesses hold solid waste permits for nine municipal solid waste landfills and energy recovery facilities. These businesses will directly pay the tipping fee increases from \$0.81/ton to \$1.18/ton and per-ton permit compliance fee increases from \$0.30/ton to \$0.58/ton. They in turn would likely pass these increased costs on to customers disposing waste at their facilities. In addition, eight large businesses own 10 active "captive" landfills – landfills that dispose of only waste generated by the business itself. These captive landfills do not pay the tipping fee, but would see their per-ton permit fees increase from \$0.21/ton to \$0.58/ton.

Indirect Impacts Proposed increases in permit and tipping fees will increase garbage collection costs paid by large businesses that produce garbage. These cost increases are estimated to increase overall operating costs for most Oregon businesses by an amount between 0.00008 percent and 0.0056 percent, depending on type of business and quantities of garbage sent for disposal. This estimate includes both primary indirect impacts for Oregon businesses that pay to have their garbage removed, as well as secondary (supply chain) indirect impacts for Oregon businesses that purchase goods or services from other Oregon businesses that increase their prices in response to higher garbage removal costs.

## Small businesses – businesses with 50 or fewer employees

Direct Impacts There are eight small businesses that own land disposal sites that would directly pay additional per-ton fees under the proposed rules. These include three small municipal waste landfills, one construction and demolition landfill, one tire landfill, one municipal waste exporter, one sludge site, and one conversion technology facility. The conversion technology facility takes in little waste and no mixed solid waste, and will likely pay only the minimum \$200 annual permit fee and no tipping fee. The other seven facilities will have the permit compliance fee increase from \$0.30/ton to \$0.58/ton except the exporter (who does not pay permit compliance fees), and the sludge site will see permit compliance fees increase from \$0.21/ton to \$0.58/ton. The exporter and three municipal waste landfills will see tipping fees increase from \$0.81/ton to \$1.18/ton. The construction and demolition landfill will continue to not pay tipping fees until July 2019, when it too will pay \$1.18/ton.

Indirect Impacts Proposed increases in permit and tipping fees will increase garbage collection costs paid by small businesses that produce garbage. These cost increases will increase overall operating costs for most Oregon businesses by an amount between 0.00008 percent and 0.0056 percent, depending on type of business and quantities of garbage sent for disposal. This estimate includes both primary indirect impacts for Oregon businesses that pay to have their garbage removed, as well as secondary (supply chain) indirect impacts for Oregon businesses that purchase goods or services from other Oregon businesses which increase their prices in response to higher garbage removal costs.

a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.	<p>The proposed rules would directly affect eight small businesses (for example: industrial captive landfills, construction and demolition landfills, and sludge disposal facilities).</p> <p>The impact of the fee increases on small businesses that directly pay these fees is expected to be minimal since the</p>
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	fee increases can be passed on to their customers and represent a small part of their disposal costs, which is a relative small cost of doing business.
b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.	DEQ expects the proposed rules would result in little or no additional costs for reporting, recordkeeping and other administrative activities, including costs of professional services. Some disposal sites may have costs associated with adjusting the contracts they have with their customers, or with seeking approval for rate increases from local government regulators.
c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.	DEQ expects the proposed rules would result in no additional costs for equipment, supplies, labor or administration.
d. Describe how DEQ involved small businesses in developing this proposed rule.	DEQ notified small businesses during rule development by mail and email, announcements on the DEQ website, and advisory committee meetings. At the onset of the public comment period, DEQ notified small businesses by mail, email, and notices in the Oregon Bulletin. DEQ staff also contacted the small businesses directly.

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

Document title	Document location
Materials Management in Oregon: 2050 Vision and Framework for Action	<a href="#">Materials Management in Oregon</a>
Oregon Senate Bill 245	<a href="#">Oregon Senate Bill 245</a>
Oregon Department of Employment first quarter 2015 data	Employment Department 875 Union St. NE Salem OR 97311
IMPLAN Software for Economic Analysis, Regional Multipliers, Type I table, Oregon 2010 database	Data tables are maintained by DEQ's Materials Management Section, 811 SW Sixth Ave., Portland, OR 97204 and were purchased by DEQ from IMPLAN Group, LLC, 16740 Birkdale Commons Parkway, Suite 206, Huntersville, NC 28078 <a href="http://www.IMPLAN.com">www.IMPLAN.com</a>
U.S. E.P.A. Characterization of Building-Related Construction And Demolition Debris in the United States	<a href="#">Characterization of Building-Related Construction and Demolition Debris in the United States</a>

#### Advisory committee

DEQ appointed an advisory committee to provide input on the proposed rules and make recommendations on this fiscal and economic impact statement.

To comply with ORS 183.333, DEQ asked for the committee's recommendations on:

- Whether the proposed rules would have a fiscal impact,

- The extent of the impact, and
- Whether the proposed rules would have a significant impact on small businesses and how DEQ could reduce that impact to comply with [ORS 183.540](#).

The committee reviewed the draft fee analysis and the draft fiscal and economic impact statement, specifically the impact on small businesses, and documented its recommendations in the Fiscal Impact Advisory Committee Meeting Summary. That document can be found online here: [Fiscal Impact Advisory Committee Meeting Summary](#). The committee concluded that the proposed rules will have a fiscal and economic impact and agreed with DEQ's assessment of the fiscal and economic impact on federal and state agencies, local governments, large and small businesses and the public. The committee concluded that the proposed rules will not have a significant adverse impact on small businesses.

DEQ considered input from the advisory committee when completing this fiscal and economic impact statement.

### Housing cost

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

The possible impact of these proposed changes appears to be minimal. According to EPA estimates (EPA Characterization of Building-Related Construction and Demolition Debris in the United States), building a newly constructed 1,200-square-foot dwelling should produce less than two tons of solid waste. If DEQ fees increase the cost of waste disposal by \$0.65 per ton, the increase cost of housing construction should be less than \$2.

The other proposed changes do not have an effect on housing costs. The other proposed changes would make it easier for non-governmental organizations to apply for and receive materials management grants.

## Federal relationship

### Relationship to federal requirements

This section complies with OAR 340-011-0029 and ORS 468A.327 to clearly identify the relationship between the proposed rules and applicable federal requirements. The proposed rules address administrative issues and economic concerns applicable to Oregon. There are no equivalent federal requirements.

### What alternatives did DEQ consider if any?

DEQ did not consider any alternatives to correspond with equivalent federal laws and rules because there are no equivalent federal requirements.

## 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 that rules affect land use if:

- The statewide land use planning goals specifically refer to the rule or program, or
- The rule or program is reasonably expected to have significant effects on:
  - Resources, 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, which describes the DEQ programs that have been 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, OAR 340-083 Materials Management Grant and Distressed County Rebates, do not affect existing rules, programs or activities considered land-use programs and actions.

DEQ determined that the proposed rules, OAR 340-097 Solid Waste: Permit and Disposal Fees, listed under the Chapter 340 Action section above, are existing rules that affect programs or activities that the DEQ State Agency Coordination Program considers a land-use program.

DEQ's statewide goal compliance and local plan compatibility procedures adequately cover the proposed rules:

- OAR 340-018-0050(2)(a) - ensuring compatibility with acknowledged comprehensive plans may be accomplished through a Land Use Compatibility Statement.

- OAR 340-018-0040(1) - compliance with statewide planning goals achieved by ensuring compatibility with acknowledged comprehensive plans

## Stakeholder and public involvement

### Advisory committee

DEQ convened the advisory committee on Aug. 17, 2015. The advisory committee provided input on the proposed rules. The committee webpage is here: [Solid Waste Permit Fee 2016 Advisory Committee](#).

The committee included representatives from trade organizations, public and private landfills and transfer stations, large and small businesses and the public. The committee met twice, on Aug. 17 and Sept. 15, 2015. In addition to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee provided input on whether DEQ should:

- Increase the per-ton permit and tipping fees in one step or two steps;
- Delay the fee increases by three months;
- Discontinue the permit fee differential for certain types of permitted facilities;
- Provide distressed county rebates in one step or two steps;
- Specify local government involvement in the grant process for non-local governmental applicants.

### Advisory Committee Roster

Name	Representing
Willie Tiffany Kristan Mitchell	Oregon Refuse & Recycling Association
Timm Schimke	Association of Oregon Counties
Tracy Rutten	League of Oregon Cities
Justin Gast	Association of Oregon Recyclers
Scott Klag	Metro - Resource Conservation and Recycling
Ellen Porter	Roseburg Forest Products (industrial landfill)
Dave Larmouth	Recology Western Oregon (hauler)
Paul Burns	Waste Management (large private landfill)
Lee Fortier	Rogue Disposal and Recycling (small private landfill)
Leroy Gray	Crook County Landfill (public landfill)
Dan Hurley	Lane County Waste Management Division (public landfill)
Rob Guttridge	Recycling Advocates (public interest)

## Meeting notifications

To notify people about advisory committee's activities, DEQ sent emails through GovDelivery describing how to sign up for advisory committee meeting notices, to the following lists:

- 2016 Solid Waste Permit Fee Rulemaking
- 2050 Vision for Materials Management
- DEQ Public Notices
- Rulemaking
- Solid Waste Grant Information
- Solid Waste Newsletter
- Solid Waste Permits subscribers

DEQ sent GovDelivery notices of advisory committee meetings to the people who signed up to receive them.

DEQ also added advisory committee announcements to DEQ's calendar of public meetings at: [DEQ Calendar](#).

The committee reviewed the fiscal impact statement, specifically the impact on small businesses. The committee agreed:

- The proposed rules will have a fiscal impact;
- DEQ identified those impacts accurately; and
- The proposed rules will have no significant adverse impact on small businesses.

## EQC prior involvement

DEQ informed the Environmental Quality Commission about this rulemaking during the materials management program update at the August 2015 EQC meeting.

## Public notice

DEQ submitted the Notice of Proposed Rulemaking with Hearing for this rulemaking on Oct. 15, 2015 to:

- Secretary of State for publication in the November 1, Oregon Bulletin.
- This rulemaking's web page: [Solid Waste Permit Fee 2016 Rulemaking](#)
- 6,742 interested parties on the Agency Rulemaking List through GovDelivery
- 302 stakeholders on the Solid Waste Permit Fee Rulemaking List through GovDelivery
- 111 solid waste disposal facility permit holders (excluding composters, waste tire carrier and storage permits, and solid waste letter authorization permit holders) through email
- 48 interested parties through mail by U.S. Postal Service notice
- The following key legislators required under [ORS 183.335](#):
  - Senator Chris Edwards, Chair, Senate Interim Committee on Environment and Natural Resources



- Representative Jessica Vega Pederson, Chair, House Interim Committee on Energy and Environment
- Advisory committee members

#### Close of public comment period

The comment period closed Monday, Nov 23, 2015 at 4 p.m.

#### Public hearings and comment

DEQ held one public hearing in Portland with call-in capability.

Date	Wednesday, Nov. 18, 2015
Time	6 p.m.
Address Line 1	DEQ Headquarters, 811 SW 6 <sup>th</sup> Ave.
Address Line 2	10 <sup>th</sup> Floor, Conference Room EQC-A
City	Portland
Presiding Officer	Jill Inahara, environmental engineer, Materials Management
Staff Presenter	Peter Spendelow, waste reduction specialist, Materials Management

Six people attended the hearing, three in person and three through the telephone conference line. One person commented orally and no person commented in writing.

An overview of the rulemaking package was presented by Peter Spendelow and Jill Inahara with a question and answer session.

At 6:43 p.m. before taking comments, the presiding officer summarized procedures for the hearing including notification that DEQ was recording the hearing. The presiding officer asked people who wanted to present verbal comments to complete, sign and submit a registration form or, if attending through the conference line, to notify the presiding office of their intent to present comments.

## Summary of comments and DEQ responses

For public comments received by the close of the public comment period, the following table organizes comments so that each comment is cross referenced to the commenter number. Original comments are on file with DEQ. DEQ's response follows each comment summary. DEQ changed the proposed rules in response to comments as described in the response sections.

#	Summary of Comments and DEQ Responses
1	<p>Comment: The commenter supports the rule changes.</p> <p>DEQ received comments in this category from commenters 1, 4, 5, 6 and 7 listed in the <i>Commenter section</i> below.</p> <p>Response: <i>DEQ appreciates the support of the commenter.</i></p>
2	<p>Comment: The commenter suggests that language be added to the grant rules that DEQ notify affected local governments prior to the time of award that a proposal from an applicant within the local government's boundaries has been submitted to DEQ.</p> <p>DEQ received comments in this category from commenter 2 listed in the <i>Commenter section</i> below.</p> <p>Response: <i>A grant issue that was discussed at one of the advisory committee meetings for this rulemaking was how to involve local governments in reviewing grant proposals affecting their jurisdictions – since revised grant rules will allow grants to entities besides local governments. All agreed local governments should have the opportunity to provide input on grant proposals affecting them – and DEQ values that input - but no process for providing it seemed practicable for the full range of grant proposals we can expect – or for all local governments. For example, grant proposals might affect one, multiple, or no local governments (e.g., research projects); and local governments have different capacities and processes for reviewing grant proposals.</i></p> <p><i>Given this, DEQ is proposing to include local government involvement in the grant processes that will be updated to implement the new rules – rather than in the proposed rules. That will allow more flexibility for engaging local governments in ways that serve their interests most efficiently and support the grant process.</i></p> <p><i>DEQ did not change the proposed rules in response to this comment.</i></p>
3	<p>Comment: The commenter supports deconstruction to conserve materials and landfill space and reduce tipping fees.</p> <p>DEQ received comments in this category from commenter 3 listed in the <i>Commenter section</i> below.</p> <p>Response: <i>The deconstruction of buildings allows most of the materials to be salvaged for future reuse efforts. DEQ supports deconstruction and the reuse of building materials and agrees that it can help avoid landfill tipping fees and thus reduce the total disposal fees paid at the project</i></p>

#	Summary of Comments and DEQ Responses
	<p>scale. DEQ has a history of supporting building material reuse programs through our grants program and more recently an online deconstruction calculator that shows the carbon, energy, and tip fee savings of deconstruction versus demolition. This joint project with the City of Portland and Metro should be available to the public in mid 2016 and can be found at <a href="http://DeconstructionCalculator.com">DeconstructionCalculator.com</a>.</p> <p>DEQ did not change the proposed rules in response to this comment.</p>
4	<p>Comment: The commenter requested changes to the opportunity to recycling program requirements, which is not addressed in this rulemaking.</p> <p>DEQ received comments in this category from commenter 4 listed in the <i>Commenter section</i> below.</p> <p>Response: DEQ did not change the proposed rules in response to this comment.</p>

## Commenters

Comments received by close of public comment period

The table below lists seven people and organizations that submitted public comments about the proposed rules by the deadline on Monday, Nov. 23, 2016 at 4 p.m. Original comments are on file with DEQ.

Commenter Number	Name	Affiliation
1	Charlotte Sahnou	NA
2	Theresa Koppang	Washington County
3	Pamela Alee	NA
4	Kirk Hamrick	Village at Mt Hood Recycling Center
5	Jody Snyder	Waste Connections
6	Kim Kaminski	Waste Management
7	Tracy Rutten	League of Oregon Cities

## Implementation

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The details of rule implementation are outlined below.

### Notification

If adopted, the proposed rules would become effective upon filing with Secretary of State, in late-January or early-February, 2016. DEQ would notify affected parties by sending information to all affected permit holders by email and postcards to permit holders not signed up for email notices. DEQ would also post the announcement of the adopted rules on the DEQ website.

### Systems

Website - DEQ's headquarters office would update its website with amended reporting forms for affected permittees.

## Five-year review

### Requirement

The state Administrative Procedures Act requires DEQ to review **new** rules within five years of the date the EQC adopts the proposed rules. Though the review will align with any changes to the law in the intervening years, DEQ based its analysis on current law.

### Exemption from five-year rule review

The Administrative Procedures Act exempts some of the proposed rules from the five-year rule review because the proposed rules would amend or repeal an existing rule. ORS 183.405 (4).

### Five-year rule review required

No later than January 27, 2021, DEQ will review the newly adopted rules required under ORS 183.405 (1) to determine whether:

- The rule has had the intended effect
- The anticipated fiscal impact of the rule was underestimated or overestimated
- Subsequent changes in the law require that the rule be repealed or amended
- There is continued need for the rule.

DEQ will use “available information” to comply with the review requirement allowed under ORS 183.405 (2).

DEQ will provide the five-year rule review report to the advisory committee to comply with ORS 183.405 (3).

## DEPARTMENT OF ENVIRONMENTAL QUALITY

### DIVISION 83

#### ~~SOLID WASTE PLANNING AND~~ ~~RECYCLING MATERIALS MANAGEMENT GRANTS~~ RULES AND DISTRESSED COUNTY REBATES

340-083-0010

#### Purpose and Scope

~~(1) These rules are intended to implement:~~

~~(1) ORS 459A.120(2) as amended by Section 7, Chapter 662, Oregon Laws 2015(b)&(e), to provide under which grants for activities to reduce the environmental and human health impacts of materials at all stages of their life cycles are made available to local government units for recycling (including waste reduction) and solid waste planning activities; and~~

~~(2) ORS 459A.110 as amended by Section 6a, Chapter 662, Oregon Laws 2015 to provide partial rebates of solid waste tipping fees to distressed counties.~~

~~(2) The purpose of the recycling and solid waste planning grants program is to provide grant funds to local governments in Oregon that are in need of financial assistance to plan for solid waste management options and to improve their recycling and waste reduction capabilities.~~

Stat. Auth.: ORS 45A.025 & ORS 468.020

Stats. Implemented: ORS 459A.120

Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00

340-083-0020

#### Definitions

~~The definitions in ORS 459.005 and this rule apply to this division. If the same term is defined in this rule and ORS 459.005, the definition in this rule applies to this division. As used in these rules unless otherwise specified:~~

(1) "Applicant" -- The ~~local government unit~~ person applying for a grant.

(2) ~~"Department"~~ "DEQ" -- The Department of Environmental Quality. ~~Decisions with respect to grants pursuant to this Division may be delegated to the Administrator of the Waste Prevention and Management Division.~~

(3) "Director" -- the Director of ~~the Department of Environmental Quality~~ DEQ.

(4) "Grant ~~R~~ound" -- The period of time that starts when in which the Department DEQ begins accepting ~~opens the acceptance of~~ new applications for funding and ends when DEQ ~~with the~~ disburses ~~ment of~~ grant awards from available funds.

~~(5) "Local Government Unit" — A city, county, metropolitan service district formed under ORS Chapter 268, sanitary district or sanitary authority formed under ORS Chapter 450, county service district formed under ORS Chapter 451, regional air quality control authority formed under ORS 468A.100 to 468A.130 and ORS 468A.140 to 468A.175 or any other local government unit responsible for solid waste management.~~

~~(56)~~ "Permit" -- A document DEQ issues ~~d by the Department~~, bearing the signature of the Director or the Director's authorized representative, which by its conditions may authorize the permittee to construct, install, modify, operate or close a disposal site in accordance with specified limitations.

(6) "Person" -- the United States, the state or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity.

(7) "Rolling ~~S~~stock" -- Motorized vehicles on tires or wheels that have generalized usage such as garbage collection trucks, ~~garbage roll-off~~ trucks, forklifts, trailers, tractors.

Stat. Auth.: ORS 45A.025 & ORS 468.020

Stats. Implemented: ORS 459A.120

Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00

### **340-083-0030**

#### **Eligible Applicants**

~~Eligible applicants include any Oregon local government unit. Eligible applicants may enter into contracts with private citizens or companies to accomplish the work outlined in the grant agreement.~~ Any person may apply for a materials management grant.

Stat. Auth.: ORS 45A.025 & ORS 468.020

Stats. Implemented: ORS 459A.120

Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00

### **340-083-0040**

#### **Eligible Projects**

~~(1) DEQ may award g~~ Grants may be awarded for any of the following activities for up to 100 percent of the cost of projects and project-related costs, including but not limited to the following types of projects:

(1) Activities to reduce the environmental and human health impacts of materials at all stages of their life cycles, such as:

(a) Promoting and enhancing waste reuse and prevention, recycling and other waste recovery activities;

(b) Collecting data;



(c) Researching, planning, developing and applying performance measures;

(d) Developing standards and educational and promotional activities;

(e) Supporting markets;

(f) Demonstrating activities; or

(g) Managing household hazardous wastes and materials.

(2) Solid waste and other materials management planning activities by counties and metropolitan service districts, as approved by DEQ.

~~(a) Preparation of a solid waste management plan;~~

~~(b) Planning for diversion of recyclable, reusable, compostable, or energy recoverable materials;~~

~~(c) Planning and implementing a community wide recycling and collection program, or expanding existing collection operations;~~

~~(d) Purchasing equipment or material to initiate or expand the recovery or processing of recyclable materials;~~

~~(e) Enhancing or developing a reducing, reusing, recycling or composting promotion and education program;~~

~~(f) Establishing and operating recycling depots;~~

~~(g) Preparing cost analysis or rate studies which support development of variable weight based rates for garbage collection and drop-off;~~

~~(h) Preparing local and regional market development research and planning studies;~~

~~(i) Researching and developing local and regional reuse options;~~

~~(j) Initiating reuse and waste prevention programs;~~

~~(k) Developing local material exchange programs;~~

~~(l) Developing Buy Recycled campaigns;~~

~~(m) Developing and implementing local government recycled product procurement programs;~~

~~(n) Developing resource efficiency programs.~~

Stat. Auth.: ORS 45A.025 & ORS 468.020  
Stats. Implemented: ORS 459A.120  
Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91

**340-083-0050**

Grant funds may not be used for~~The following are ineligible for grant money under these rules:~~

- (1) Disposal site engineering, design or hydrogeologic study required by ~~Department~~ DEQ permit or enforcement action.
- (2) Costs for which payment has been or will be received under another financial assistance program.
- (3) Capital asset expenditures for solid waste or materials management planning, including the purchase or upgrade of computers, other office equipment, or other asset that has an initial estimated useful life beyond a single year.
- (4) Costs incurred before DEQ~~prior to issuance of~~ a grant agreement~~by the Department.~~
- (5) Costs incurred after the expiration date of the grant agreement.
- (6) License applications or permit fees.
- (7) Ordinary operating expenses of the grant applicant ~~local government~~ that are not directly related to the project.
- (8) Costs incurred for ~~landfill~~ permitted facility closures.

Stat. Auth.: ORS 45A.025 & ORS 468.020

Stats. Implemented: ORS 459A.120

Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00

**340-083-0070**

### ~~Selection Criteria~~ Procedures for Awarding Grants

- (1) DEQ shall determine the amount of funds available for grants, if any, at least once per biennium.
- (2) DEQ shall establish and publish notice of deadlines to submit grant applications, including the criteria for their evaluation. The announcement may limit the request for applications to specific projects or project areas.
- (3) DEQ will develop criteria to use in evaluating and awarding grants that may include but are not limited to the following:
  - ~~(1) The Department shall coordinate evaluation of grant proposals. Grants will be awarded based on the criteria below in subsections (a) through (h) of this section. The Department will determine the relative value of each of these factors in deciding which projects will receive funding during a grant round. The criteria include:~~
    - (a) Minimum qualifying score;

(b) Ability of applicant to perform;

(c) Potential to reduce the adverse environmental and human health impacts of materials;

(d) Potential to reduce solid waste generation and exceed the requirements of ORS Chapter 459A;

(e) Potential for ongoing benefits;

~~(b) Potential for environmental enhancement;~~

~~(c) Potential for continuity;~~

~~(d) Type of program;~~

~~(f) Program~~ Level of commitment to the project; and

~~(f) Need;~~

(g) Cost of project effectiveness;

~~(h) Preference points, if applicable.~~

~~(2) The Department may include, in the public notice announcing fund availability, a request for applications for specific projects or project areas that will be given priority for funding. Revised selection criteria, published in the public notice of fund availability, may be used.~~

Stat. Auth.: ORS 45A.025 & ORS 468.020

Stats. Implemented: ORS 459A.120

Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00

**340-083-0080**

## **Application Procedures**

~~(1) The Department shall establish and publish notice of deadlines for submission of applications for each grant round at least once per biennium if revenue is available. The Department will determine the amount of funds available for the current grant round.~~

~~(2) An applicant shall~~ must provide a complete application for each grant applied for. Application ~~shall~~ must be made on a form DEQ provides ~~d by the Department~~. Each application ~~shall~~ must include ~~such information as shall be required by the Department, including but not limited to:~~

~~(1a) Name and address~~ Applicant's contact information ~~of applicant;~~

~~(2b)~~ Description of the project and the expected ~~results~~ outcomes;

~~(3e)~~ Workplan and schedule for project completion ~~of project~~;

(4d) Complete budget, including breakdown of costs;

(5e) Signature of applicant's ~~authorized agent~~ responsible official;

(6f) Any other information DEQ requires ~~sd by the Department~~.

Stat. Auth.: ORS 45A.025 & ORS 468.020

Stats. Implemented: ORS 459A.120

Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00

### 340-083-0090

#### Review and Approval

(1) ~~The Department~~ DEQ shall review and approve or deny all each completed grant applications that meets the following criteria ~~and approve or deny them~~;

~~(2) For a grant application to be considered for approval, the following criteria must be met:~~

(a) Application must be complete and submitted by the application deadline;

~~(b) Grant money must be available; and~~

~~(be)~~ Project must be eligible under these rules.

~~(23)~~ DEQ will award G grants ~~shall be awarded to applicants based on for~~ approved applications based on their ranking using the highest in selection evaluation criteria.

~~(34)~~ ~~The Department~~ DEQ may award some, none or all of the grant ~~moneys~~ funds available in any grant round.

~~(45)~~ ~~The Department~~ DEQ may award grants in all or part of the grant amounts ~~less than the~~ applicant requests ~~sd by the applicant~~. ~~The Department~~ DEQ shall make that determination based on the application's merits ~~of the application~~, the project proposed, and the availability of grant ~~moneys~~ funds.

~~(6) Qualified applicants who do not receive a grant award can apply again during the next grant round.~~

Stat. Auth.: ORS 45A.025 & ORS 468.020

Stats. Implemented: ORS 459A.120

Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00

### 340-083-0100

#### Grant Agreements and Conditions

(1) Following approval and selection of the application, ~~the Department~~ DEQ and the applicant shall enter into an agreement. The agreement ~~shall~~ must include but is not limited to the following ~~conditions~~:

(a) Statement of work and schedule;

(b) Requirements of p~~a~~Progress reports;

(c) ~~Monitoring~~ Project management requirements as DEQ specifies;

(d) ~~Statement of A~~ authorized activities for rolling stock, purchased in whole or in part with grant funding, during its expected service life;

(e) ~~d~~ End date -- term of project and grant;

(f) ~~e~~ Method of payment;

(g) ~~f~~ Terms and conditions of the grant;

(h) ~~g~~ Requirements for sharing of information resulting from project; and

(i) ~~h~~ Requirements of a p~~Project~~ C~~ompletion~~ R~~eport.~~

(2) ~~The Department~~ DEQ may allow an extension of time for a grantee to complete a project, upon written request by the grantee made prior to the agreement expiration date and receipt ~~from the grantee~~ of acceptable documentation of need.

(3) ~~The Department~~ DEQ may at any time review and audit requests for payment and make adjustments for, but not limited to, math errors, items not built or bought, unacceptable constructions; or lack of progress under the grant.

Stat. Auth.: ORS 45A.025 & ORS 468.020

Stats. Implemented: ORS 459A.120

Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00

### 340-083-0500

#### Rebates to Distressed Counties

(1) By September 30 of each year beginning in 2016, DEQ shall provide a partial rebate of the fees authorized under ORS 459A.110 to the nine most economically-distressed counties in Oregon.

(2) DEQ shall annually identify the counties that will receive the rebate provided for under section (1) and, no later than January 31 of each year, provide notice to:

(a) Each of the economically distressed counties DEQ identifies that will receive a rebate under section (1), and,

(b) Each of the counties that received a rebate during the previous calendar year.

Stat. Auth.: Section 6a, Chapter 662, Oregon Laws 2015

Stats. Implemented: Section 6a, Chapter 662, Oregon Laws 2015

### **Distressed County Index**

(1) The Distressed County Index is calculated by multiplying together the following four composite factors using the latest data available on the date of calculation:

(a) The state's unemployment rate divided by the county's unemployment rate (U.S. Department of Labor Bureau of Labor Statistics);

(b) The county's per capita personal income divided by the state's per capita personal income (U.S. Department of Commerce Bureau of Economic Analysis);

(c) The percent change in the county's average covered payroll per worker over a two year period (U.S. Department of Labor Bureau of Labor Statistics); and

(d) The percent change in the county's employment over a two year period (U.S. Department of Labor Bureau of Labor Statistics).

(2) The nine most distressed counties are the nine counties with the lowest distressed county index values.

Stat. Auth.: Section 6a, Chapter 662, Oregon Laws 2015

Stats. Implemented: Section 6a, Chapter 662, Oregon Laws 2015

### **340-083-0520**

### **Tonnage Calculation**

(1) As used in this rule and OAR 340-083-0530, "solid waste disposed" means the total weight of solid waste received for final disposal or destruction other than the following:

(a) Sewage sludge or septic tank and cesspool pumpings;

(b) Waste disposed of at an industrial waste disposal site;

(c) Industrial waste, ash, rock, dirt, plaster, asphalt and similar material if delivered to a municipal solid waste disposal site or demolition disposal site;

(d) Waste received at an ash monofill from an energy recovery facility;

(e) Solid waste not generated within this state; and

(f) Solid waste not subject to the fee established in ORS 459A.110 (1).

(2) For Umatilla County, the "tonnage disposed" for the county is equal to the solid waste disposed in the previous calendar year that was generated in either the Umatilla or the Milton Freewater wastesheds.

(3) For all other counties, the “tonnage disposed” for each county is calculated by multiplying the solid waste disposed in the previous calendar year that was generated within the wasteshed that contains the majority of the county population, multiplied by the ratio of the county population to the wasteshed population.

(4) The “economically-distressed tonnage disposed” is equal to the sum of “tonnage disposed” for the nine most economically-distressed counties as identified in OAR 340-083-0510.

(5) The “Oregon tonnage disposed” is the sum of the tonnage disposed as calculated in sections (2) and (3) for all Oregon counties combined.

(6) The “tonnage adjustment factor” is calculated as follows:

(a) If the “economically-distressed tonnage disposed” is less than or equal to ten percent of the “Oregon tonnage disposed,” then the “tonnage adjustment factor” is equal to 1.

(b) If the “economically-distressed tonnage disposed” is greater than ten percent of the “Oregon tonnage disposed,” then the “tonnage adjustment factor” is equal to ten percent of the “Oregon tonnage disposed” divided by the “economically-distressed tonnage disposed.”

(7) For each county, the “adjusted tonnage disposed” for each year is equal to the “tonnage disposed” for that county multiplied by the “tonnage adjustment factor.”

Stat. Auth.: Section 6a, Chapter 662, Oregon Laws 2015

Stats. Implemented: Section 6a, Chapter 662, Oregon Laws 2015

### **340-083-0530**

#### **Payments to Economically-Distressed Counties**

(1) For the nine most economically-distressed counties identified in OAR 340-083-0510, the rebate paid to the county as specified in OAR 340-083-0500 (1) is \$0.28 multiplied by the “adjusted tonnage disposed” for that county calculated under OAR 340-083-0520.

(2) If a city within one of the nine most economically-distressed counties owns or operates a land disposal site, energy-recovery facility or incinerator, DEQ shall distribute to the city instead of the county the portion of the rebate based on tons of solid waste disposed that was generated in the county and disposed of at the land disposal site or energy recovery facility or incinerator owned by the city.

(3) Moneys a city or county receives through the rebate program may be used only for:

(a) Purposes authorized in ORS 459A.120;

(b) Operating solid waste disposal facilities; or

(c) Reducing disposal fees.

Stat. Auth.: Section 6a, Chapter 662, Oregon Laws 2015

Stats. Implemented: Section 6a, Chapter 662, Oregon Laws 2015



## DIVISION 97

### SOLID WASTE: PERMIT AND DISPOSAL FEES

#### 340-097-0001

##### Applicability

~~OAR chapter 340,~~ This division ~~97~~ applies to persons owning or operating, or applying to ~~the Department~~ DEQ to own or operate, a municipal solid waste landfill, a non-municipal land disposal site, an energy recovery facility or an incinerator receiving solid waste delivered by the public or by a solid waste collection service, a composting facility, a sludge disposal site, a land application disposal site, a transfer station, a material recovery facility, a solid waste treatment facility, a solid waste conversion technology facility, or any other solid waste disposal site required to obtain a solid waste permit from ~~the Department~~ DEQ. It also applies to persons who transport solid waste out of Oregon for final disposal or destruction at ~~to~~ a disposal site that receives domestic solid waste. Beginning April 1, 2019, it also applies to persons who transport solid waste out of Oregon for final disposal or destruction at a disposal site that receives construction and demolition waste, land clearing debris, or waste tires for final disposal or destruction.

Stat. Auth.: ORS 459.045, 459A.100 - 459A.120 & 468.020

Stats. Implemented: ORS 459.235

Hist.: DEQ 5-1993, f. & cert. ef. 3-10-93; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 7-2013, f. & cert. ef. 8-29-13

#### 340-097-0110

##### Solid Waste Permit and Disposal Fees

(1) Each person required to have a ~~S~~solid ~~W~~aste ~~D~~isposal ~~P~~ermit is subject to the following fees:

(a) An application processing fee for new facilities which must be submitted with the application for a new permit as specified in OAR 340-097-0120(2); and

(b) A solid waste permit compliance fee as listed in OAR 340-097-0120(6); ~~and~~

~~(c) The 1991 Recycling Act permit fee as listed in OAR 340-097-0120(7).~~

(2) Each disposal site receiving domestic solid waste ~~will be subject to~~ for final disposal or destruction must pay the per-ton solid waste disposal fees on solid waste as specified in OAR 340-097-0120~~(8)~~(7). Beginning April 1, 2019, and first payable beginning July 1, 2019, land disposal sites receiving construction and demolition wastes, land clearing debris, or tires for final disposal or destruction must also pay this fee.

~~(3) Out-of-state solid waste. Each disposal site or regional disposal site receiving solid waste generated out-of-state must pay a per-ton solid waste disposal fee as specified in OAR 340-097-0120(8).~~

(34) Oregon solid waste disposed of out-of-state. A person who transports solid waste, ~~that is~~ generated in Oregon, for final disposal or destruction at ~~to~~ a disposal site located outside of Oregon that receives domestic solid waste, or beginning April 1, 2019, a land disposal site that receives construction and demolition waste, land clearing debris, or waste tires for final disposal or destruction, must pay the per-ton solid waste disposal fees as specified in OAR 340-097-0120~~(8)~~(7).

(a) For purposes of this rule and OAR 340-097-0120~~(8)~~(7), a person is the transporter if the person transports or arranges for the transport of solid waste out of Oregon for final disposal or destruction at a disposal site that receives domestic solid waste, or beginning April 1, 2019, a land disposal site that receives construction and demolition waste, land clearing debris, or waste tires for final disposal or destruction, and is:

(A) A solid waste collection service or any other person who hauls, under an agreement, solid waste out of Oregon;

(B) A person who hauls his or her own industrial, commercial or institutional waste or other waste such as cleanup materials contaminated with hazardous substances;

(C) An operator of a transfer station, when Oregon waste is delivered to a transfer station located in Oregon and from there is transported out of Oregon for final disposal or destruction;

(D) A person who authorizes or retains the services of another person for disposal of cleanup materials contaminated with hazardous substances; or

(E) A person who transports infectious waste.

(b) Notification requirement:

(A) Before transporting or arranging for transport of solid waste for final disposal or destruction out of ~~the State of~~ Oregon to a disposal site that receives domestic solid waste, or beginning April 1, 2019, to a land disposal site that receives construction and demolition wastes, land clearing debris, or waste tires, ~~at~~ the person identified in subsection (3)(a) must notify ~~the~~ DEQ in writing on a form DEQ provides ~~d by the department. The persons identified in subsection (4)(a) of this rule are subject to this notification requirement;~~

(B) The notification must ~~include a statement of~~ whether the person will transport the waste on an on-going basis. ~~If the transport is on-going, the person must re-notify the department by January 1 of each year of his or her intention to continue to transport waste out of state for disposal.~~

(c) As used in this section, "person" does not include an individual transporting only the individual's own residential solid waste to a disposal site located out of the state.

~~(45)~~ Fees. The solid waste permit compliance fee must be paid for each year a disposal site requiring a solid waste permit is in operation or under permit. ~~The 1991 Recycling Act permit fee, if applicable, must be paid for each year the disposal site is in active operation.~~ The fee period ~~shall be~~ is prospective and is as follows:

(a) New sites requiring a solid waste permit:

(A) Any new disposal site must pay a solid waste permit compliance fee ~~and 1991 Recycling Act permit fee, if applicable,~~ 30 days after the end of the calendar quarter in which solid waste is received at the facility, except as specified in paragraph ~~(45)~~(a)(B), (C) ~~or and~~ (D) ~~of this rule~~;

(B) ~~For a~~ new disposal site that receives less than 1,000 tons of solid waste per year, other than a transfer station, material recovery facility, or composting facility, ~~that receives less than 1,000 tons of solid waste a year, for the first year's operation, the entire permit compliance fee must pay the entire permit compliance fee be paid for the first year's operation~~ if the facility is placed into operation on or before September 1. Any new facility placed into operation after September 1 will not owe a permit compliance fee until the following January 31. An application for a new disposal site receiving less than 1,000 tons of solid waste a year must include the applicable permit compliance fee for the first year of operation;

(C) ~~For a~~ new industrial solid waste disposal site, sludge or land application disposal site or solid waste treatment facility receiving more than 1,000 but less than 20,000 tons of solid waste a year, ~~these facilities~~ must pay a solid waste permit compliance fee ~~and 1991 Recycling Act permit fee, if applicable,~~ on January 31 following the calendar year in which the facility is placed into operation;

(D) ~~For a~~ new transfer station, material recovery facility or composting facility must pay, for the first fiscal year's operation, the entire permit compliance fee for the first fiscal year's operation, based on the state's fiscal year, must be paid if the facility is placed into operation on or before April 1. Any new facility placed into operation after April 1 will not owe a permit compliance fee until ~~the department~~ DEQ's annual billing for the next fiscal year. An application for a new transfer station, material recovery facility or composting facility must include the applicable permit compliance fee for the first year of operation.

(b) Existing permitted sites. Any existing disposal site that is in operation, ~~and~~ is permitted to receive or receives solid waste in a calendar year must pay the solid waste permit compliance fee ~~and 1991 Recycling Act permit fee, if applicable,~~ for that year as specified in OAR 340-097-0120(6)(a), (b), ~~and~~ (c) ~~and (7)~~. A facility ~~will be~~ is deemed to be an "existing permitted site" from the time of permit issuance;

(c) Closed sites. If a land disposal site stops receiving waste before April 1 of the fiscal year in which the site permanently ceases active operations, based on the state's fiscal year, the permittee must pay the solid waste permit compliance fee for the "year of closure" OAR 340-097-0120(6)(d)(A) specifies ~~as specified in OAR 340-097-0120(6)(d)(A)~~ as well as the permit compliance fee the permittee pays ~~paid quarterly by the permittee~~ based on the waste received in the previous calendar quarters. If a land disposal site has permanently ceased receiving waste and the site is closed, a solid waste permittee must pay the solid waste permit compliance fee for closed sites as specified in OAR 340-097-0120(6)(d);

(d) ~~The Director~~ DEQ may alter the due date for the solid waste permit compliance fee ~~and, if applicable, the 1991 Recycling Act permit fee~~ upon receipt of a justifiable request from a permittee.

~~(56)~~ Tonnage reporting. The permit compliance fee, ~~1991 Recycling Act permit fee if applicable,~~ and per-ton solid waste disposal fees, if applicable, must be submitted together with a form DEQ ~~approved by the department~~. Information reported must include the amount and type of solid

waste and any other information DEQ requires ~~ed by the department~~ to substantiate the tonnage or to calculate the state material recovery rate.

(~~67~~) Calculation of tonnage. Permittees and registrants are responsible for accurately calculating ~~on of~~ solid waste tonnage. For purposes of determining appropriate fees under OAR 340-097-0120(6) and through (~~8~~)(7), annual tonnage of solid waste received must be calculated as follows:

(a) Municipal solid waste facilities. Annual tonnage of solid waste received at municipal solid waste facilities, including construction and demolition sites and municipal solid waste composting facilities, receiving 50,000 or more tons annually must be based on weight from certified scales. When certified scales are required, all solid waste received at the facility for disposal must be weighed at the facility's scales, except as DEQ otherwise approves ~~ed by the department~~ in writing. If certified scales are required but are temporarily not functioning, all solid waste received at the facility must either use other certified scales in the area or estimate tonnage as specified in this section. If certified scales are not required, estimated annual tonnage for municipal solid waste, including that at municipal solid waste composting facilities, will be based upon 300 pounds per cubic yard of uncompacted waste received, and 700 pounds per cubic yard of compacted waste received. If yardage is not known, the solid waste facility may use one ton per resident in the service area of the disposal site, unless the permittee demonstrates a more accurate estimate. For other types of wastes received at municipal solid waste sites and where certified scales are not required or not available, the conversions and provisions in subsection (b) ~~of this section~~ must be used;

(b) Industrial facilities. Annual tonnage of solid waste received at industrial facilities receiving 50,000 or more tons annually must be based on weight from certified scales. When certified scales are required, all solid waste received at the facility must be weighed at the facility's scales, except as DEQ otherwise approves ~~ed by the department~~ in writing. If certified scales are required but are temporarily not functioning, all solid waste received at the facility must either use other certified scales in the area or estimate tonnage as specified in this section. If certified scales are not required, industrial sites must use the following conversion factors to determine tonnage of solid waste disposed. Composting facilities must use the following conversion factors for those materials appropriate for composting:

(A) Asbestos: 500 pounds per cubic yard;

(B) Pulp and paper waste other than sludge: 1,000 pounds per cubic yard;

(C) Construction, demolition and land clearing wastes: 1,100 pounds per cubic yard;

(D) Wood waste:

(i) Wood waste, mixed, including log sort waste (as defined in OAR 340-093-0030(~~99~~)): 1,200 pounds per cubic yard;

(ii) Wood waste including scrap lumber, pallets, wood from construction and demolition activities: 250 pounds per cubic yard;

(iii) Wood chips, green: 473 pounds per cubic yard;

(iv) Wood chips, dry: 243 pounds per cubic yard;

(v) Sawdust, wet: 530 pounds per cubic yard;

(vi) Sawdust, bone dry: 275 pounds per cubic yard.

(E) Yard debris:

(i) Grass clippings: 950 pounds per cubic yard;

(ii) Leaves: 375 pounds per cubic yard;

(iii) Compacted yard debris: 640 pounds per cubic yard; and

(iv) Uncompacted yard debris: 250 pounds per cubic yard.

(F) Manure, sludge, septage, grits, screenings and other wet wastes: 1,600 pounds per cubic yard;

(G) Food waste: 700 pounds per cubic yard;

(H) Ash and slag: 2,000 pounds per cubic yard;

(I) Contaminated soils: 2,400 pounds per cubic yard;

(J) Asphalt, mining and milling wastes, foundry sand, silica: 2,500 pounds per cubic yard;

(K) For wastes other than the above, the permittee or registrant must determine the density of the wastes subject to DEQ's written approval ~~by the department in writing~~;

(L) As an alternative to the above conversion factors, the permittee or registrant may determine the density of their own waste, subject to DEQ's written approval ~~by the department in writing~~.

(78) DEQ may refund ~~The~~ the application processing fee, ~~may be refunded~~ in whole or in part, after taking into consideration any costs ~~the department~~ DEQ may have incurred in processing the application, when submitted with an application if either of the following conditions exists:

(a) ~~The department~~ DEQ determines that no permit ~~will be~~ is required;

(b) The applicant withdraws the application before ~~the department~~ DEQ has granted or denied preliminary approval or, if no preliminary approval has been granted or denied, ~~the department~~ DEQ has approved or denied the application.

(89) Exemptions:

(a) Persons treating petroleum contaminated soils ~~will be~~are exempt from the application processing and renewal fees for a Letter Authorization if the following conditions are met:

(A) The soil is being treated as part of a site cleanup authorized under ORS Chapters 465 or 466; and

(B) ~~The department~~DEQ and the applicant for the Letter Authorization have entered into a written agreement under which the applicant must pay for costs DEQ incurred ~~by the department~~ for oversight of the cleanup and for processing of the Letter Authorization ~~must be paid by the applicant~~.

(b) Persons to whom a Letter Authorization has been issued are not subject to the solid waste permit compliance fee ~~or the 1991 Recycling Act permit fee~~.

(910) All fees must be made payable to the Department of Environmental Quality.

(101) Submittal schedule:

(a) DEQ bills ~~the~~ the solid waste permit compliance fee ~~will be billed by the department~~ to the holder of the following permits: transfer station, material recovery facility, composting facility and closed solid waste disposal site. The fee period ~~be~~is the state's fiscal year, ~~July 1 through June 30~~, and the fee is due annually by the date indicated on the invoice. Any "year of closure" pro-rated fee will be billed to the permittee of a closed site together with the site's first regular billing as a closed site;

(b) For ~~holders of~~ solid waste disposal site permits holders other than those in subsection (101)(a) ~~of this rule~~, DEQ does not bill the solid waste permit compliance fee ~~and the 1991 Recycling Act permit fee, if applicable, are not billed to the permittee by the department~~. The permittee must self-report ~~these fees must be self-reported by the permittee to the department~~DEQ, under pursuant to sections (45) and (56) ~~of this rule~~. The fee period ~~will be~~is either the calendar quarter or the calendar year, and the fees are due to ~~the department~~DEQ as follows:

(A) For any disposal site required to pay the per-ton fee on any solid waste as specified in OAR 340-097-0120(8)(7) (~~generally~~e.g., landfills, ~~and~~ municipal waste incinerators, municipal energy recovery facilities, conversion technology facilities, and solid waste treatment facilities that receive domestic solid waste for final disposal or destruction), plus construction and demolition and tire landfills): on the same schedule as specified in subsection (101)(c) ~~of this rule~~;

(B) For industrial solid waste disposal sites, sludge or land application disposal sites and other disposal sites not required to pay the per-ton fee on solid waste as specified in OAR 340-097-0120(8)(7), except construction and demolition and tire landfills:

(i) For sites receiving over 20,000 tons of waste a year: quarterly, on the 30th day of the month following the end of the calendar quarter; or

(ii) For sites receiving ~~less than~~ 20,000 tons of waste a year or less: annually, on the 31st day of January;



(iii) For Aa site ~~which that~~ has received less than 20,000 tons of waste in past years but exceeds that amount in a given year, DEQ will in general ~~be granted~~ a one-year delay ~~from the department~~ before the site is required to begin submitting permit fees on a quarterly basis. If the site appears likely to continue to exceed the 20,000 annual ton limit, then ~~the department~~ DEQ will require the site to report tonnage and submit applicable permit fees on a quarterly basis.

(c) DEQ does not bill ~~T~~he per-ton solid waste disposal fees on ~~domestic~~ solid waste and the Orphan Site Account fee ~~are not billed by the department~~. They must be paid on the following schedule:

(A) Quarterly, on the 30th day of the month following the end of the calendar quarter; or

(B) Annually, on the 31st day of January ~~beginning in 1995~~, for ~~holders of~~ solid waste disposal site permits holders for sites receiving less than 1,000 tons of solid waste a year.

(d) The fees on Oregon solid waste disposed of out ~~of~~ state must be paid to ~~the department~~ DEQ quarterly on the 30th day of the month following the end of the calendar quarter; or on the schedule specified in OAR 340-097-0120 ~~(5)(e)(C)(7)(d)(C)~~. The fees must be submitted together with a form DEQ approves ~~d by the department~~, which must include the amount of solid waste, type, county of origin of the solid waste, and state to which the solid waste is being transported for final disposal.

Stat. Auth.: ORS 459.045, 459.235, 459.236, 459A.025, 459A.110, 459A.115 , 468.065

Stats. Implemented: ORS 459.235, 459.236, 459A.110 & 459A.115

Hist.: DEQ 3-1984, f. & ef. 3-7-84; DEQ 45-1990, f. & cert. ef. 12-26-90; DEQ 12-1991(Temp), f. & cert. ef. 8-2-91; DEQ 28-1991, f. & cert. ef. 12-18-91; DEQ 8-1992, f. & cert. ef. 4-30-92; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0115; DEQ 23-1993, f. 12-16-93, cert. ef. 1-1-94; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 9-1996, f. & cert. ef. 7-10-96; DEQ 17-1997, f. & cert. ef. 8-14-97; DEQ 27-1998, f. & cert. ef. 11-13-98; DEQ 6-2009, f. & cert. ef. 9-14-09; DEQ 7-2013, f. & cert. ef. 8-29-13

### **340-097-0120**

#### **Permit/Registration Categories and Fee Schedule**

(1) For purposes of OAR chapter 340, division 97:

(a) A "new facility" means a facility at a location not previously used or permitted, and does not include an expansion to an existing permitted site;

(b) An "off-site industrial facility" means all industrial solid waste disposal sites other than a "captive industrial facility";

(c) A "captive industrial facility" means an industrial solid waste disposal site where the permittee is the owner and operator of the site and is the generator of all the solid waste received at the site.

(d) As used in this rule, the term "mixed solid waste" means solid wastes that include paper, plastic, and other materials at least partly made up of domestic waste, where the materials have not been separated from each other.



(2) Application Processing Fee. Except as provided in sections (3), (4), and (5) ~~of this rule~~ with respect to composting facilities, an application processing fee must be submitted with each application for a new facility, including application for preliminary approval pursuant to OAR 340-093-0090. The amount of the fee ~~will~~ depends on the type of facility and the required action as follows:

(a) A new municipal solid waste landfill facility, construction and demolition landfill, incinerator, energy recovery facility, solid waste treatment facility, off-site industrial facility or sludge disposal facility:

(A) Designed to receive over 7,500 tons of solid waste per year: \$10,000;

(B) Designed to receive ~~less than~~ 7,500 tons and less of solid waste per year: \$5,000.

(b) A new captive industrial facility, ~~(other than a transfer station or material recovery facility)~~: \$1,000;

(c) A new transfer station or material recovery facility:

(A) Receiving over 50,000 tons of solid waste per year: \$500;

(B) Receiving ~~between over~~ 10,000 and less than or equal to 50,000 tons of solid waste per year: \$200;

(C) Receiving ~~less than~~ 10,000 tons and less of solid waste per year: \$100.

(d) Letter Authorization under ~~(pursuant to OAR 340-093-0060)~~:

(A) New site: \$500;

(B) Renewal: \$500.

(e) Permit Exemption Determination ~~(under pursuant to OAR 340-093-0080(2))~~: \$500.

(f) Beneficial use of solid waste application and reporting fees ~~(punder pursuant to OAR 340-093-0260 through 340-093-0290)~~:

(A) The review of an annual or other report required under a beneficial use determination: \$250;

(B) A Tier One beneficial use determination: \$1,000;

(C) A Tier Two beneficial use determination: \$2,000;

(D) A Tier Three beneficial use determination: \$5,000;

(E) Annual extension to a demonstration project authorization: \$1,000.

(g) A new conversion technology facility:

(A) Designed to receive over 7,500 tons of feedstocks per year: \$2,000;

(B) Designed to receive 7,500 tons or less of feedstocks per year: \$1,500.

(3) Composting Facility Screening Fee. Every composting facility that is required to comply with OAR 340-096-0080: ~~Screening~~ must pay a screening fee of \$150. The fee must be submitted with the application for screening, as provided in OAR 340-096-0080(1).

(4) Facility Plan Review and Approval Fee.

(a) Every composting facility that is required to comply with OAR 340-096-0090: ~~must pay an~~ Operations Plan Approval ~~must pay a~~ fee as provided below. The fee must be submitted with the proposed Operations Plan, as provided in OAR 340-096-0090(1). Agricultural composting facilities for which the Oregon Department of Agriculture is providing facility plan review and approval are not required to pay this fee.

(A) For facilities composting over 100 tons and less than or equal to 3,500 tons of feedstocks per year: \$500;

(B) For facilities composting over 3,500 tons and less than or equal to 7,500 tons of feedstocks ~~tons~~ per year: \$750;

(C) For facilities composting over 7,500 tons and less than or equal to 10,000 tons of feedstocks per year: \$1000;

(D) For facilities composting over 10,000 tons and less than or equal to 50,000 tons of feedstocks per year: \$2,000;

(E) For facilities composting over 50,000 tons of feedstocks per year: \$5,000.

(b) Every conversion technology facility that is required to comply with OAR 340-096-0180 must pay a fee as provided below. The fee must be submitted with the proposed Operations Plan, as provided in OAR 340-096-0180.

(A) For facilities designed to receive 3,500 tons of feedstocks or less per year: \$1,000;

(B) For facilities designed to receive over 3,500 tons but no more than 7,500 tons of feedstocks per year: \$1,500;

(C) For facilities designed to receive over 7,500 tons but no more than 20,000 tons of feedstocks per year: \$2,200;

(D) For facilities designed to receive over 20,000 tons but no more than 50,000 tons of feedstocks per year: \$3,000;

(E) For facilities designed to receive over 50,000 tons of feedstocks per year: \$5,000.

(5) Composting Facility Engineering Review Fee. Every composting facility that requires ~~department~~ DEQ review of engineering plans and specifications under OAR 340-096-0130 must pay a fee of \$500. This fee is in addition to the fee required by section (4) ~~of this rule~~. Agricultural composting facilities for which the Oregon Department of Agriculture provides review of engineering plans and specifications are not required to pay this fee.

(6) Solid Waste Permit Compliance Fee. ~~The Commission establishes~~ The following is the fee schedule including base per-ton rates to be used to determine the solid waste permit compliance fee beginning with fiscal year 1993. The per-ton rates are based on the estimated solid waste to be received at all permitted solid waste disposal sites and on ~~the department~~ DEQ's Legislatively Approved Budget. ~~The department~~ DEQ will reviews annually the amount of revenue generated by this fee schedule. To determine the solid waste permit compliance fee, ~~the department~~ DEQ may use the base per-ton rates or any lower rates if the rates ~~would~~ generate more revenue than provided in ~~the department~~ DEQ's Legislatively Approved Budget. Any increase in the base rates must be established ~~fixed~~ by rule ~~by the Commission~~. ~~(In any case where a facility fits into more than one category, the permittee must pay only the highest fee):~~

(a) All facilities accepting or permitted to accept solid waste for final disposal or destruction, excluding ~~except~~ transfer stations, material recovery facilities and composting facilities:

(A) The greater of \$200; or

(B) A solid waste permit compliance fee based on the total amount of solid waste received at the facility in the previous calendar quarter or year, as applicable, at the following rate:

(i) All municipal landfills, construction and demolition landfills, ~~off-site industrial facilities~~ landfills, sludge disposal facilities, incinerators and solid waste treatment facilities: \$.21 per ton through June 30, 2016, and \$.58 per ton beginning July 1, 2016;

(ii) ~~Captive industrial facilities: \$.21 per ton;~~

~~(iii)~~ Energy recovery facilities. \$.13 per ton through June 30, 2016, and \$.58 per ton beginning July 1, 2016; and

~~(iv)~~ ~~(iii)~~ Conversion technology facilities: \$.10 per ton through June 30, 2016, and \$.58 per ton beginning July 1, 2016.

(C) If DEQ does not require a disposal site, ~~(other than a municipal solid waste facility,)~~ ~~is not required by the department~~ to monitor and report volumes of solid waste collected, the solid waste permit compliance fee may be based on the estimated tonnage received in the previous quarter or year.

(D) Ash or residue received by a landfill from an energy recovery facility, incinerator, or conversion technology facility is not subject to the solid waste permit compliance fee paid on a per-ton basis under paragraph (B) if the energy recovery facility, incinerator, or conversion technology facility has paid this fee on all incoming waste. Alternatively, DEQ can make arrangements to split this fee between a landfill and an energy recovery facility, incinerator, or conversion technology facility, based on the proportion by weight of the ash and residue received by the landfill and the total weight of incoming waste received by the energy recovery facility, incinerator, or conversion technology facility.

(b) Transfer stations and material recovery facilities:

(A) Facilities accepting over 50,000 tons of solid waste per year: \$1,000;

(B) Facilities accepting ~~between-over~~ 10,000 and less than or equal to 50,000 tons of solid waste per year: \$500;

(C) Facilities accepting ~~less than~~ 10,000 tons or less of solid waste per year: \$50.

(c) Composting facilities with a ~~C~~omposting ~~P~~ermit, except agricultural composting facilities for which the Oregon Department of Agriculture is providing facility oversight:

(A) Utilizing over 50,000 tons of feedstocks for composting per year: \$5,000;

(B) Utilizing over 7,500 and less than or equal to 50,000 tons of feedstocks for composting per year: \$1,000;

(C) Utilizing over 3,500 and less than or equal to 7,500 tons of feedstocks for composting per year: \$500;

(D) Utilizing over 100 tons and less than or equal to 3,500 tons of feedstocks for composting per year: \$100.

(d) Closed Disposal Sites:

(A) Year of closure. If a land disposal site stops receiving waste before April 1 of the fiscal year in which the site permanently ceases active operations, ~~the department~~ DEQ will determine a pro-rated permit compliance fee for those quarters of the fiscal year not covered by the permit compliance fee paid on solid waste received at the site. The pro-rated fee for the quarters the site was closed ~~shall be~~ is based on the calculation in paragraph (B) ~~of this subsection~~;

(B) Each land disposal site ~~that~~ which closes after July 1, 1984: \$150; or the average tonnage of solid waste received in the three most active years of site operation multiplied by \$.025 per ton, whichever is greater; but the maximum permit compliance fee ~~shall not exceed~~ is \$2,500.

~~(7) 1991 Recycling Act permit fee:~~

~~(a) A 1991 Recycling Act permit fee must be submitted by each solid waste permittee which received solid waste in the previous calendar quarter or year, as applicable, except transfer stations, material recovery facilities, composting facilities, conversion technology facilities that process only separated solid wastes, and captive industrial facilities. The Commission establishes the 1991 Recycling Act permit fee as \$.09 per ton for each ton of solid waste received in the subject calendar quarter or year;~~

~~(b) The \$.09 per ton rate is based on the estimated solid waste received at all permitted solid waste disposal sites subject to this fee and on the department's Legislatively Approved Budget. The department will review annually the amount of revenue generated by this rate. To determine the 1991 Recycling Act permit fee, the department may use this rate or any lower rate if the rate would generate more revenue than provided in the department's Legislatively Approved Budget. Any increase in the rate must be fixed by rule by the Commission;~~

~~(c) This fee is in addition to any other permit fee and per-ton fee which may be assessed by the department.~~

~~(8)-(7)~~ Per-ton solid waste disposal fees on ~~domestic~~ solid waste. Each solid waste disposal site that receives domestic solid waste for final disposal or destruction, and each person transporting solid waste out of Oregon for disposal at a disposal site that receives domestic solid waste, except as excluded under OAR 340-097-0110(~~34~~)(c), must submit fees to ~~the department~~ DEQ for solid waste received at the disposal site or transported out of Oregon. Beginning April 1, 2019, each solid waste land disposal site that receives construction or demolition waste, land clearing debris, or tires for final disposal or destruction, and each person transporting solid waste out of Oregon for disposal at a land disposal site that receives construction or demolition waste, land clearing debris, or tires for final disposal or destruction, except as excluded under OAR 340-097-0110(3)(c), must also submit fees to DEQ for solid waste received at the disposal site or transported out of Oregon.

(a) These fees include:

(A) A ~~per-ton~~ fee of \$.81 per ton through March 31, 2016, raised to \$1.11 per ton beginning April 1, 2016, through March 31, 2019, and raised to \$1.18 per ton beginning April 1, 2019;

(B) An additional per-ton fee of \$.13 for the Orphan Site Account.

(b) Tons subject to these fees include:

(A) All solid wastes landfilled, incinerated without energy recovery, or treated for disposal by an Oregon disposal site that receives domestic solid waste, except as excluded in subsections (c) and (f) ~~of this section~~;

(B) All Oregon solid wastes that are transported out-of-state for disposal or destruction at a disposal site that receives domestic solid waste, except as excluded under OAR 340-097-0110(~~34~~)(c) and subsections (c) and (f) ~~of this section~~;

(C) Mixed solid wastes that are processed by a conversion technology facility, burned for energy recovery, or composted by an Oregon disposal site that receives domestic waste;

(D) Mixed solid waste that includes at least some domestic solid waste, that has been processed into refuse-derived fuel to be burned for energy recovery by a facility that does not have a solid waste permit, or that does not pay per-ton fees as specified in this section;

(E) Beginning April 1, 2019, all solid wastes landfilled at an Oregon land disposal site that receives construction or demolition waste, land clearing debris, or tires for final disposal or destruction, except as excluded in subsections (c) and (f); and

(F) Beginning April 1, 2019, all Oregon solid wastes that are transported out-of-state for disposal at a land disposal site that receives construction or demolition waste, land clearing debris, or tires for final disposal or destruction, except as excluded in subsections (c) and (f).

(c) Tons not subject to these fees include:

(A) Through March 31, 2019, Aall solid wastes received at a facility that does not receive domestic solid waste;

(B) Beginning April 1, 2019, all solid wastes received at a facility that does not receive domestic solid waste or construction or demolition waste, land clearing debris, or tires;

~~(CB)~~ Source-separated recyclables or other materials separated and recycled from mixed solid waste, including separated organics that are composted;

~~(DE)~~ Construction and demolition wastes and industrial wastes that are processed by a material recovery facility or a conversion technology facility to make a fuel to be burned off-site for energy recovery ~~—for example, (e.g., in a wood fuel boiler);~~

~~(ED)~~ All solid wastes sent by a disposal site to another disposal site, where the per-ton fees ~~will be~~ are paid by a disposal site that subsequently receives that waste;

~~(FE)~~ Solid waste used as daily cover at a landfill as described in subsection (f) ~~of this section;~~

~~(GF)~~ Ash from an energy recovery facility or incinerator that has paid these fees; and

~~(HG)~~ Sewage sludge or septic tank and cesspool pumpings.

(d) Submittal schedule:

(A) These per-ton fees must be submitted to ~~the department~~ DEQ quarterly. Quarterly remittals ~~shall be~~ are due on the 30th day of the month following the end of the calendar quarter;

(B) Disposal sites receiving less than 1,000 tons of solid waste per year must submit the fees annually on January 31. If DEQ does not require the disposal site ~~is not required by the department~~ to monitor and report volumes of solid waste collected, the disposal site must submit with the fees an estimate of the population the disposal site serves ~~the fees must be accompanied by an estimate of the population served by the disposal site;~~

(C) For solid waste transported out ~~of~~ state for disposal, the per-ton fees must be paid to ~~the department~~ DEQ quarterly. Quarterly remittals are due on the 30th day of the month following the end of the calendar quarter in which the disposal occurred. If the transportation is not on-going, the fee must be paid to ~~the department~~ DEQ within 60 days after the disposal occurs.

~~(e) As used in this rule, the term "mixed solid waste" means solid wastes that include paper, plastic, and other materials at least partly made up of domestic waste, where the materials have not been separated from each other;~~

(f) Solid waste that is used as daily cover at a landfill in place of virgin soil ~~will~~ is not ~~be~~ subject to the per-ton solid waste fees in this section, provided that:

(A) The amount of solid waste used as daily cover does not exceed the amount needed to provide the equivalent of six inches of soil used as daily cover;

(B) If disposed of in Oregon, the solid waste is not being used on a trial basis, but instead has received necessary approvals from ~~the department~~ DEQ for use as daily cover; and

(C) If disposed of in a landfill outside of Oregon, the solid waste has received final approval from the appropriate state or local regulatory agency that regulates the landfill.

(g) For solid waste delivered to disposal facilities owned or operated by a Metropolitan Service District, the fees established in this section ~~will be~~ are levied on the district, not on the disposal site.

#### (8) 1991 Recycling Act Permit Fee

(a) Through June 30, 2016, a 1991 Recycling Act permit fee of \$.09 per ton must be submitted by each solid waste permittee which received solid waste in the previous calendar quarter or year, as applicable, except transfer stations, material recovery facilities, composting facilities, conversion technology facilities that process only separated solid wastes, industrial facilities that do not receive wastes from off-site, and persons with letter authorizations. The fee must be paid along with the solid waste permit compliance fee as specified in OAR 340-097-0110. Disposal sites that receive less than 1,000 tons per year of solid waste for final disposal are exempt from paying the 1991 Recycling Act permit fee for 2016.

(b) Effective July 1, 2016, the 1991 Recycling Act permit fee is eliminated.

Stat. Auth.: ORS 459.045, 459.235 & 468.065

Stats. Implemented: ORS 459.235, 459.236, 459A.110 & 459A.115

Hist.: DEQ 3-1984, f. & ef. 3-7-84; DEQ 12-1988, f. & cert. ef. 6-14-88; DEQ 14-1990, f. & cert. ef. 3-22-90; DEQ 45-1990, f. & cert. ef. 12-26-90; DEQ 12-1991(Temp), f. & cert. ef. 8-2-91; DEQ 28-1991, f. & cert. ef. 12-18-91; DEQ 8-1992, f. & cert. ef. 4-30-92; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0120; DEQ 23-1993, f. 12-16-93, cert. ef. 1-1-94; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 9-1996, f. & cert. ef. 7-10-96; DEQ 17-1997, f. & cert. ef. 8-14-97; DEQ 27-1998, f. & cert. ef. 11-13-98; DEQ 6-2009, f. & cert. ef. 9-14-09; DEQ 4-2010, f. & cert. ef. 5-14-10; DEQ 7-2013, f. & cert. ef. 8-29-13



**DEPARTMENT OF ENVIRONMENTAL QUALITY**

**DIVISION 83**

**MATERIALS MANAGEMENT GRANTS AND DISTRESSED COUNTY REBATES**

**340-083-0010**

**Purpose and Scope**

These rules implement:

- (1) ORS 459A.120(2) as amended by Section 7, Chapter 662, Oregon Laws 2015, to provide grants for activities to reduce the environmental and human health impacts of materials at all stages of their life cycles; and
- (2) ORS 459A.110 as amended by Section 6a, Chapter 662, Oregon Laws 2015 to provide partial rebates of solid waste tipping fees to distressed counties.

Stat. Auth.: ORS 45A.025 & ORS 468.020

Stats. Implemented: ORS 459A.120

Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00

**340-083-0020**

**Definitions**

The definitions in ORS 459.005 and this rule apply to this division. If the same term is defined in this rule and ORS 459.005, the definition in this rule applies to this division.

- (1) "Applicant" -- The person applying for a grant.
- (2) "DEQ" -- The Department of Environmental Quality.
- (3) "Director" -- the Director of DEQ.
- (4) "Grant round" -- The period of time that starts when DEQ begins accepting new applications for funding and ends when DEQ disburses grant awards from available funds.
- (5) "Permit" -- A document DEQ issues, bearing the signature of the Director or the Director's authorized representative, which by its conditions may authorize the permittee to construct, install, modify, operate or close a disposal site in accordance with specified limitations.
- (6) "Person" -- the United States, the state or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity.
- (7) "Rolling stock" -- Motorized vehicles on tires or wheels that have generalized usage such as garbage collection trucks, roll-off trucks, forklifts, trailers, tractors.



### **340-083-0030**

#### **Eligible Applicants**

Any person may apply for a materials management grant.

Stat. Auth.: ORS 45A.025 & ORS 468.020  
Stats. Implemented: ORS 459A.120  
Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00

### **340-083-0040**

#### **Eligible Projects**

DEQ may award grants for any of the following activities:

(1) Activities to reduce the environmental and human health impacts of materials at all stages of their life cycles, such as:

- (a) Promoting and enhancing waste reuse and prevention, recycling and other waste recovery activities;
- (b) Collecting data;
- (c) Researching, planning, developing and applying performance measures;
- (d) Developing standards and educational and promotional activities;
- (e) Supporting markets;
- (f) Demonstrating activities; or
- (g) Managing household hazardous wastes and materials.

(2) Solid waste and other materials management planning activities by counties and metropolitan service districts, as approved by DEQ.

Stat. Auth.: ORS 45A.025 & ORS 468.020  
Stats. Implemented: ORS 459A.120  
Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91

### **340-083-0050**

#### **Ineligible Activities and Costs**

Grant funds may not be used for:

(1) Disposal site engineering, design or hydrogeologic study required by DEQ permit or enforcement action.

(2) Costs for which payment has been or will be received under another financial assistance program.

(3) Capital asset expenditures for solid waste or materials management planning, including the purchase or upgrade of computers, other office equipment, or other asset that has an initial estimated useful life beyond a single year.

(4) Costs incurred before DEQ issues a grant agreement.

(5) Costs incurred after the expiration date of the grant agreement.

(6) License applications or permit fees.

(7) Ordinary operating expenses of the grant applicant that are not directly related to the project.

(8) Costs incurred for permitted facility closures.

Stat. Auth.: ORS 45A.025 & ORS 468.020

Stats. Implemented: ORS 459A.120

Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00

### **340-083-0070**

#### **Procedures for Awarding Grants**

(1) DEQ shall determine the amount of funds available for grants, if any, at least once per biennium.

(2) DEQ shall establish and publish notice of deadlines to submit grant applications, including the criteria for their evaluation. The announcement may limit the request for applications to specific projects or project areas.

(3) DEQ will develop criteria to use in evaluating and awarding grants that may include but are not limited to the following:

(a) Minimum qualifying score;

(b) Ability of applicant to perform;

(c) Potential to reduce the adverse environmental and human health impacts of materials;

(d) Potential to reduce solid waste generation and exceed the requirements of ORS Chapter 459A;

(e) Potential for ongoing benefits;

(f) Level of commitment to the project; and

Stat. Auth.: ORS 45A.025 & ORS 468.020

Stats. Implemented: ORS 459A.120

Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00

### **340-083-0080**

#### **Application Procedures**

An applicant must provide a complete application for each grant applied for. Application must be made on a form DEQ provides. Each application must include:

- (1) Applicant's contact information;
- (2) Description of the project and the expected outcomes;
- (3) Workplan and schedule for project completion;
- (4) Complete budget, including breakdown of costs;
- (5) Signature of applicant's responsible official;
- (6) Any other information DEQ requires.

Stat. Auth.: ORS 45A.025 & ORS 468.020

Stats. Implemented: ORS 459A.120

Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00

### **340-083-0090**

#### **Review and Approval**

(1) DEQ shall review and approve or deny each grant application that meets the following criteria:

- (a) Application must be complete and submitted by the application deadline; and
- (b) Project must be eligible under these rules.

(2) DEQ will award grants for approved applications based on their ranking using the evaluation criteria.

(3) DEQ may award some, none or all of the grant funds available in any grant round.

(4) DEQ may award all or part of the grant amount the applicant requests. DEQ shall make that determination based on the application's merits, the project proposed, and the availability of grant funds.

### **340-083-0100**

#### **Grant Agreements and Conditions**

(1) Following approval and selection of the application, DEQ and the applicant shall enter into an agreement. The agreement must include but is not limited to the following:

- (a) Statement of work and schedule;
- (b) Requirements of progress reports;
- (c) Project management requirements as DEQ specifies;
- (d) Statement of authorized activities for rolling stock, purchased in whole or in part with grant funding, during its expected service life;
- (e) End date -- term of project and grant;
- (f) Method of payment;
- (g) Terms and conditions of the grant;
- (h) Requirements for sharing of information resulting from project; and
- (i) Requirements of a project completion report.

(2) DEQ may allow an extension of time for a grantee to complete a project, upon written request by the grantee made prior to the agreement expiration date and receipt of acceptable documentation of need.

(3) DEQ may at any time review and audit requests for payment and make adjustments for, but not limited to, math errors, items not built or bought, unacceptable constructions or lack of progress under the grant.

Stat. Auth.: ORS 45A.025 & ORS 468.020  
Stats. Implemented: ORS 459A.120  
Hist.: DEQ 6-1991, f. & cert. ef. 5-2-91; DEQ 7-2000, f. & cert. ef. 6-2-00

### **340-083-0500**

#### **Rebates to Distressed Counties**

(1) By September 30 of each year beginning in 2016, DEQ shall provide a partial rebate of the fees authorized under ORS 459A.110 to the nine most economically-distressed counties in Oregon.

(2) DEQ shall annually identify the counties that will receive the rebate provided for under section (1) and, no later than January 31 of each year, provide notice to:

- (a) Each of the economically distressed counties DEQ identifies that will receive a rebate under section (1), and,
- (b) Each of the counties that received a rebate during the previous calendar year.

Stat. Auth.: Section 6a, Chapter 662, Oregon Laws 2015  
Stats. Implemented: Section 6a, Chapter 662, Oregon Laws 2015

### **340-083-0510**

#### **Distressed County Index**

(1) The Distressed County Index is calculated by multiplying together the following four composite factors using the latest data available on the date of calculation:

- (a) The state's unemployment rate divided by the county's unemployment rate (U.S. Department of Labor Bureau of Labor Statistics);
- (b) The county's per capita personal income divided by the state's per capita personal income (U.S. Department of Commerce Bureau of Economic Analysis);
- (c) The percent change in the county's average covered payroll per worker over a two year period (U.S. Department of Labor Bureau of Labor Statistics); and
- (d) The percent change in the county's employment over a two year period (U.S. Department of Labor Bureau of Labor Statistics).

(2) The nine most distressed counties are the nine counties with the lowest distressed county index values.

Stat. Auth.: Section 6a, Chapter 662, Oregon Laws 2015  
Stats. Implemented: Section 6a, Chapter 662, Oregon Laws 2015

### **340-083-0520**

#### **Tonnage Calculation**

(1) As used in this rule and OAR 340-083-0530, "solid waste disposed" means the total weight of solid waste received for final disposal or destruction other than the following:

- (a) Sewage sludge or septic tank and cesspool pumpings;
- (b) Waste disposed of at an industrial waste disposal site;
- (c) Industrial waste, ash, rock, dirt, plaster, asphalt and similar material if delivered to a municipal solid waste disposal site or demolition disposal site;

(d) Waste received at an ash monofill from an energy recovery facility;

(e) Solid waste not generated within this state; and

(f) Solid waste not subject to the fee established in ORS 459A.110 (1).

(2) For Umatilla County, the “tonnage disposed” for the county is equal to the solid waste disposed in the previous calendar year that was generated in either the Umatilla or the Milton Freewater wastesheds.

(3) For all other counties, the “tonnage disposed” for each county is calculated by multiplying the solid waste disposed in the previous calendar year that was generated within the wasteshed that contains the majority of the county population, multiplied by the ratio of the county population to the wasteshed population.

(4) The “economically-distressed tonnage disposed” is equal to the sum of “tonnage disposed” for the nine most economically-distressed counties as identified in OAR 340-083-0510.

(5) The “Oregon tonnage disposed” is the sum of the tonnage disposed as calculated in sections (2) and (3) for all Oregon counties combined.

(6) The “tonnage adjustment factor” is calculated as follows:

(a) If the “economically-distressed tonnage disposed” is less than or equal to ten percent of the “Oregon tonnage disposed,” then the “tonnage adjustment factor” is equal to 1.

(b) If the “economically-distressed tonnage disposed” is greater than ten percent of the “Oregon tonnage disposed,” then the “tonnage adjustment factor” is equal to ten percent of the “Oregon tonnage disposed” divided by the “economically-distressed tonnage disposed.”

(7) For each county, the “adjusted tonnage disposed” for each year is equal to the “tonnage disposed” for that county multiplied by the “tonnage adjustment factor.”

Stat. Auth.: Section 6a, Chapter 662, Oregon Laws 2015

Stats. Implemented: Section 6a, Chapter 662, Oregon Laws 2015

### **340-083-0530**

#### **Payments to Economically-Distressed Counties**

(1) For the nine most economically-distressed counties identified in OAR 340-083-0510, the rebate paid to the county as specified in OAR 340-083-0500 (1) is \$0.28 multiplied by the “adjusted tonnage disposed” for that county calculated under OAR 340-083-0520.

(2) If a city within one of the nine most economically-distressed counties owns or operates a land disposal site, energy-recovery facility or incinerator, DEQ shall distribute to the city instead of the county the portion of the rebate based on tons of solid waste disposed that was generated in the county and disposed of at the land disposal site or energy recovery facility or incinerator owned by the city.

(3) Moneys a city or county receives through the rebate program may be used only for:

- (a) Purposes authorized in ORS 459A.120;
- (b) Operating solid waste disposal facilities; or
- (c) Reducing disposal fees.

Stat. Auth.: Section 6a, Chapter 662, Oregon Laws 2015

Stats. Implemented: Section 6a, Chapter 662, Oregon Laws 2015

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## **DIVISION 97**

### **SOLID WASTE: PERMIT AND DISPOSAL FEES**

#### **340-097-0001**

##### **Applicability**

This division applies to persons owning or operating or applying to DEQ to own or operate, a municipal solid waste landfill, a non-municipal land disposal site, an energy recovery facility or an incinerator receiving solid waste delivered by the public or by a solid waste collection service, a composting facility, a sludge disposal site, a land application disposal site, a transfer station, a material recovery facility, a solid waste treatment facility, a solid waste conversion technology facility or any other solid waste disposal site required to obtain a solid waste permit from DEQ. It also applies to persons who transport solid waste out of Oregon for final disposal or destruction at a disposal site that receives domestic solid waste. Beginning April 1, 2019, it also applies to persons who transport solid waste out of Oregon for final disposal or destruction at a disposal site that receives construction and demolition waste, land clearing debris, or waste tires for final disposal or destruction.

Stat. Auth.: ORS 459.045, 459A.100 - 459A.120 & 468.020

Stats. Implemented: ORS 459.235

Hist.: DEQ 5-1993, f. & cert. ef. 3-10-93; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 7-2013, f. & cert. ef. 8-29-13

#### **340-097-0110**

##### **Solid Waste Permit and Disposal Fees**

(1) Each person required to have a solid waste disposal permit is subject to the following fees:

(a) An application processing fee for new facilities which must be submitted with the application for a new permit as specified in OAR 340-097-0120(2); and

(b) A solid waste permit compliance fee as listed in OAR 340-097-0120(6).

(2) Each disposal site receiving domestic solid waste for final disposal or destruction must pay the per-ton solid waste disposal fees on solid waste as specified in OAR 340-097-0120(7).

Beginning April 1, 2019, and first payable beginning July 1, 2019, land disposal sites receiving construction and demolition wastes, land clearing debris, or tires for final disposal or destruction must also pay this fee.

(3) Oregon solid waste disposed of out-of-state. A person who transports solid waste, generated in Oregon, for final disposal or destruction at a disposal site located outside of Oregon that receives domestic solid waste, or beginning April 1, 2019, a land disposal site that receives construction and demolition waste, land clearing debris, or waste tires for final disposal or destruction, must pay the per-ton solid waste disposal fees as specified in OAR 340-097-0120(7).

(a) For purposes of this rule and OAR 340-097-0120(7), a person is the transporter if the person transports or arranges for the transport of solid waste out of Oregon for final disposal or



destruction at a disposal site that receives domestic solid waste, or beginning April 1, 2019, a land disposal site that receives construction and demolition waste, land clearing debris, or waste tires for final disposal or destruction, and is:

(A) A solid waste collection service or any other person who hauls, under an agreement, solid waste out of Oregon;

(B) A person who hauls his or her own industrial, commercial or institutional waste or other waste such as cleanup materials contaminated with hazardous substances;

(C) An operator of a transfer station, when Oregon waste is delivered to a transfer station located in Oregon and from there is transported out of Oregon for final disposal or destruction;

(D) A person who authorizes or retains the services of another person for disposal of cleanup materials contaminated with hazardous substances; or

(E) A person who transports infectious waste.

(b) Notification requirement:

(A) Before transporting or arranging for transport of solid waste for final disposal or destruction out of Oregon to a disposal site that receives domestic solid waste, or beginning April 1, 2019, to a land disposal site that receives construction and demolition wastes, land clearing debris, or waste tires, the person identified in subsection (3)(a) must notify DEQ in writing on a form DEQ provides.

(B) The notification must state whether the person will transport the waste on an on-going basis.

(c) As used in this section, "person" does not include an individual transporting only the individual's own residential solid waste to a disposal site located out of the state.

(4) Fees. The solid waste permit compliance fee must be paid for each year a disposal site requiring a solid waste permit is in operation or under permit. The fee period is prospective and is as follows:

(a) New sites requiring a solid waste permit:

(A) Any new disposal site must pay a solid waste permit compliance fee 30 days after the end of the calendar quarter in which solid waste is received at the facility, except as specified in paragraph (4)(a)(B), (C) and (D);

(B) A new disposal site that receives less than 1,000 tons of solid waste per year, other than a transfer station, material recovery facility or composting facility, must pay the entire permit compliance fee for the first year's operation if the facility is placed into operation on or before September 1. A new facility placed into operation after September 1 will not owe a permit compliance fee until the following January 31. An application for a new disposal site receiving less than 1,000 tons of solid waste a year must include the applicable permit compliance fee for the first year of operation;

(C) A new industrial solid waste disposal site, sludge or land application disposal site or solid waste treatment facility receiving more than 1,000 but less than 20,000 tons of solid waste a year must pay a solid waste permit compliance fee on January 31 following the calendar year in which the facility is placed into operation;

(D) A new transfer station, material recovery facility or composting facility must pay the entire permit compliance fee for the first fiscal year's operation, based on the state's fiscal year, if the facility is placed into operation on or before April 1. Any new facility placed into operation after April 1 will not owe a permit compliance fee until DEQ's annual billing for the next fiscal year. An application for a new transfer station, material recovery facility or composting facility must include the applicable permit compliance fee for the first year of operation.

(b) Existing permitted sites. Any existing disposal site that is in operation and is permitted to receive or receives solid waste in a calendar year must pay the solid waste permit compliance fee for that year as specified in OAR 340-097-0120(6)(a), (b), and (c). A facility is deemed to be an "existing permitted site" from the time of permit issuance;

(c) Closed sites. If a land disposal site stops receiving waste before April 1 of the fiscal year in which the site permanently ceases active operations, based on the state's fiscal year, the permittee must pay the solid waste permit compliance fee for the "year of closure" OAR 340-097-0120(6)(d)(A) specifies as well as the permit compliance fee the permittee pays quarterly based on the waste received in the previous calendar quarters. If a land disposal site has permanently ceased receiving waste and the site is closed, a solid waste permittee must pay the solid waste permit compliance fee for closed sites as specified in OAR 340-097-0120(6)(d);

(d) DEQ may alter the due date for the solid waste permit compliance fee upon receipt of a justifiable request from a permittee.

(5) Tonnage reporting. The permit compliance fee and per-ton solid waste disposal fees, if applicable, must be submitted together with a form DEQ approves. Information reported must include the amount and type of solid waste and any other information DEQ requires to substantiate the tonnage or to calculate the state material recovery rate.

(6) Calculation of tonnage. Permittees and registrants are responsible for accurately calculating solid waste tonnage. For purposes of determining appropriate fees under OAR 340-097-0120(6) and (7), annual tonnage of solid waste received must be calculated as follows:

(a) Municipal solid waste facilities. Annual tonnage of solid waste received at municipal solid waste facilities, including construction and demolition sites and municipal solid waste composting facilities, receiving 50,000 or more tons annually must be based on weight from certified scales. When certified scales are required, all solid waste received at the facility for disposal must be weighed at the facility's scales, except as DEQ otherwise approves in writing. If certified scales are required but are temporarily not functioning, all solid waste received at the facility must either use other certified scales in the area or estimate tonnage as specified in this section. If certified scales are not required, estimated annual tonnage for municipal solid waste, including that at municipal solid waste composting facilities, will be based upon 300 pounds per cubic yard of uncompacted waste received, and 700 pounds per cubic yard of compacted waste received. If yardage is not known, the solid waste facility may use one ton per resident in the service area of the disposal site, unless the permittee demonstrates a more accurate estimate. For

other types of wastes received at municipal solid waste sites and where certified scales are not required or not available, the conversions and provisions in subsection (b) must be used;

(b) Industrial facilities. Annual tonnage of solid waste received at industrial facilities receiving 50,000 or more tons annually must be based on weight from certified scales. When certified scales are required, all solid waste received at the facility must be weighed at the facility's scales, except as DEQ otherwise approves in writing. If certified scales are required but are temporarily not functioning, all solid waste received at the facility must either use other certified scales in the area or estimate tonnage as specified in this section. If certified scales are not required, industrial sites must use the following conversion factors to determine tonnage of solid waste disposed. Composting facilities must use the following conversion factors for those materials appropriate for composting:

(A) Asbestos: 500 pounds per cubic yard;

(B) Pulp and paper waste other than sludge: 1,000 pounds per cubic yard;

(C) Construction, demolition and land clearing wastes: 1,100 pounds per cubic yard;

(D) Wood waste:

(i) Wood waste, mixed, including log sort waste (as defined in OAR 340-093-0030): 1,200 pounds per cubic yard;

(ii) Wood waste including scrap lumber, pallets, wood from construction and demolition activities: 250 pounds per cubic yard;

(iii) Wood chips, green: 473 pounds per cubic yard;

(iv) Wood chips, dry: 243 pounds per cubic yard;

(v) Sawdust, wet: 530 pounds per cubic yard;

(vi) Sawdust, bone dry: 275 pounds per cubic yard.

(E) Yard debris:

(i) Grass clippings: 950 pounds per cubic yard;

(ii) Leaves: 375 pounds per cubic yard;

(iii) Compacted yard debris: 640 pounds per cubic yard; and

(iv) Uncompacted yard debris: 250 pounds per cubic yard.

(F) Manure, sludge, septage, grits, screenings and other wet wastes: 1,600 pounds per cubic yard;

(G) Food waste: 700 pounds per cubic yard;

(H) Ash and slag: 2,000 pounds per cubic yard;

(I) Contaminated soils: 2,400 pounds per cubic yard;

(J) Asphalt, mining and milling wastes, foundry sand, silica: 2,500 pounds per cubic yard;

(K) For wastes other than the above, the permittee or registrant must determine the density of the wastes subject to DEQ's written approval;

(L) As an alternative to the above conversion factors, the permittee or registrant may determine the density of their own waste, subject to DEQ's written approval.

(7) DEQ may refund the application processing fee, in whole or in part, after taking into consideration any costs DEQ may have incurred in processing the application, when submitted with an application if either of the following conditions exists:

(a) DEQ determines that no permit is required;

(b) The applicant withdraws the application before DEQ has granted or denied preliminary approval or, if no preliminary approval has been granted or denied, DEQ has approved or denied the application.

(8) Exemptions:

(a) Persons treating petroleum contaminated soils are exempt from the application processing and renewal fees for a Letter Authorization if the following conditions are met:

(A) The soil is being treated as part of a site cleanup authorized under ORS Chapters 465 or 466; and

(B) DEQ and the applicant for the Letter Authorization have entered into a written agreement under which the applicant must pay for costs DEQ incurred for oversight of the cleanup and for processing of the Letter Authorization.

(b) Persons to whom a Letter Authorization has been issued are not subject to the solid waste permit compliance fee.

(9) All fees must be made payable to the Department of Environmental Quality.

(10) Submittal schedule:

(a) DEQ bills the solid waste permit compliance fee to the holder of the following permits: transfer station, material recovery facility, composting facility and closed solid waste disposal site. The fee period is the state's fiscal year, July 1 through June 30, and the fee is due annually by the date indicated on the invoice. Any "year of closure" pro-rated fee will be billed to the permittee of a closed site together with the site's first regular billing as a closed site;

(b) For solid waste disposal site permit holders other than those in subsection (10)(a), DEQ does not bill the solid waste permit compliance fee to the permittee. The permittee must self-report these fees to DEQ, under sections (4) and (5). The fee period is either the calendar quarter or the calendar year, and the fees are due to DEQ as follows:

(A) For any disposal site required to pay the per-ton fee on any solid waste as specified in OAR 340-097-0120(7) (e.g., landfills, municipal waste incinerators, municipal energy recovery facilities, conversion technology facilities, and solid waste treatment facilities that receive domestic solid waste for final disposal or destruction), plus construction and demolition and tire landfills: on the same schedule as specified in subsection (10)(c);

(B) For industrial solid waste disposal sites, sludge or land application disposal sites and other disposal sites not required to pay the per-ton fee on solid waste as specified in OAR 340-097-0120(7), except construction and demolition and tire landfills:

(i) For sites receiving over 20,000 tons of waste a year: quarterly, on the 30th day of the month following the end of the calendar quarter; or

(ii) For sites receiving 20,000 tons of waste a year or less: annually, on the 31st day of January;

(iii) For a site that has received less than 20,000 tons of waste in past years but exceeds that amount in a given year, DEQ will in general grant a one-year delay before the site is required to begin submitting permit fees on a quarterly basis. If the site appears likely to continue to exceed the 20,000 annual ton limit, then DEQ will require the site to report tonnage and submit applicable permit fees on a quarterly basis.

(c) DEQ does not bill the per-ton solid waste disposal fees on solid waste and the Orphan Site Account fee. They must be paid on the following schedule:

(A) Quarterly, on the 30th day of the month following the end of the calendar quarter; or

(B) Annually, on the 31st day of January, for solid waste disposal site permit holders for sites receiving less than 1,000 tons of solid waste a year.

(d) The fees on Oregon solid waste disposed of out-of-state must be paid to DEQ quarterly on the 30th day of the month following the end of the calendar quarter or on the schedule specified in OAR 340-097-0120(7)(d)(C). The fees must be submitted together with a form DEQ approves, which must include the amount of solid waste, type, county of origin of the solid waste, and state to which the solid waste is being transported for final disposal.

Stat. Auth.: ORS 459.045, 459.235, 459.236, 459A.025, 459A.110, 459A.115 , 468.065

Stats. Implemented: ORS 459.235, 459.236, 459A.110 & 459A.115

Hist.: DEQ 3-1984, f. & ef. 3-7-84; DEQ 45-1990, f. & cert. ef. 12-26-90; DEQ 12-1991(Temp), f. & cert. ef. 8-2-91; DEQ 28-1991, f. & cert. ef. 12-18-91; DEQ 8-1992, f. & cert. ef. 4-30-92; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0115; DEQ 23-1993, f. 12-16-93, cert. ef. 1-1-94; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 9-1996, f. & cert. ef. 7-10-96; DEQ 17-1997, f. & cert. ef. 8-14-97; DEQ 27-1998, f. & cert. ef. 11-13-98; DEQ 6-2009, f. & cert. ef. 9-14-09; DEQ 7-2013, f. & cert. ef. 8-29-13

### **340-097-0120**

#### **Permit/Registration Categories and Fee Schedule**

(1) For purposes of OAR chapter 340, division 97:

(a) A "new facility" means a facility at a location not previously used or permitted, and does not include an expansion to an existing permitted site;

(b) An "off-site industrial facility" means all industrial solid waste disposal sites other than a "captive industrial facility;"

(c) A "captive industrial facility" means an industrial solid waste disposal site where the permittee is the owner and operator of the site and is the generator of all the solid waste received at the site.

(d) As used in this rule, the term "mixed solid waste" means solid wastes that include paper, plastic, and other materials at least partly made up of domestic waste, where the materials have not been separated from each other.

(2) Application Processing Fee. Except as provided in sections (3), (4), and (5) with respect to composting facilities, an application processing fee must be submitted with each application for a new facility, including application for preliminary approval pursuant to OAR 340-093-0090. The amount of the fee depends on the type of facility and the required action as follows:

(a) A new municipal solid waste landfill facility, construction and demolition landfill, incinerator, energy recovery facility, solid waste treatment facility, off-site industrial facility or sludge disposal facility:

(A) Designed to receive over 7,500 tons of solid waste per year: \$10,000;

(B) Designed to receive 7,500 tons and less of solid waste per year: \$5,000.

(b) A new captive industrial facility, other than a transfer station or material recovery facility: \$1,000;

(c) A new transfer station or material recovery facility:

(A) Receiving over 50,000 tons of solid waste per year: \$500;

(B) Receiving over 10,000 and less than or equal to 50,000 tons of solid waste per year: \$200;

(C) Receiving 10,000 tons and less of solid waste per year: \$100.

(d) Letter Authorization under OAR 340-093-0060:

(A) New site: \$500;

(B) Renewal: \$500.

(e) Permit Exemption Determination under OAR 340-093-0080(2): \$500.

(f) Beneficial use of solid waste application and reporting fees under OAR 340-093-0260 through 340-093-0290:

(A) The review of an annual or other report required under a beneficial use determination: \$250;

(B) A Tier One beneficial use determination: \$1,000;

(C) A Tier Two beneficial use determination: \$2,000;

(D) A Tier Three beneficial use determination: \$5,000;

(E) Annual extension to a demonstration project authorization: \$1,000.

(g) A new conversion technology facility:

(A) Designed to receive over 7,500 tons of feedstocks per year: \$2,000;

(B) Designed to receive 7,500 tons or less of feedstocks per year: \$1,500.

(3) Composting Facility Screening Fee. Every composting facility that is required to comply with OAR 340-096-0080 must pay a screening fee of \$150. The fee must be submitted with the application for screening, as provided in OAR 340-096-0080(1).

(4) Facility Plan Review and Approval Fee.

(a) Every composting facility that is required to comply with OAR 340-096-0090 must pay an Operations Plan Approval fee as provided below. The fee must be submitted with the proposed Operations Plan, as provided in OAR 340-096-0090(1). Agricultural composting facilities for which the Oregon Department of Agriculture is providing facility plan review and approval are not required to pay this fee.

(A) For facilities composting over 100 tons and less than or equal to 3,500 tons of feedstocks per year: \$500;

(B) For facilities composting over 3,500 tons and less than or equal to 7,500 tons of feedstocks per year: \$750;

(C) For facilities composting over 7,500 tons and less than or equal to 10,000 tons of feedstocks per year: \$1000;

(D) For facilities composting over 10,000 tons and less than or equal to 50,000 tons of feedstocks per year: \$2,000;

(E) For facilities composting over 50,000 tons of feedstocks per year: \$5,000.

(b) Every conversion technology facility that is required to comply with OAR 340-096-0180 must pay a fee as provided below. The fee must be submitted with the proposed Operations Plan, as provided in OAR 340-096-0180.

(A) For facilities designed to receive 3,500 tons of feedstocks or less per year: \$1,000;

(B) For facilities designed to receive over 3,500 tons but no more than 7,500 tons of feedstocks per year: \$1,500;

(C) For facilities designed to receive over 7,500 tons but no more than 20,000 tons of feedstocks per year: \$2,200;

(D) For facilities designed to receive over 20,000 tons but no more than 50,000 tons of feedstocks per year: \$3,000;

(E) For facilities designed to receive over 50,000 tons of feedstocks per year: \$5,000.

(5) Composting Facility Engineering Review Fee. Every composting facility that requires DEQ review of engineering plans and specifications under OAR 340-096-0130 must pay a fee of \$500. This fee is in addition to the fee required by section (4). Agricultural composting facilities for which the Oregon Department of Agriculture provides review of engineering plans and specifications are not required to pay this fee.

(6) Solid Waste Permit Compliance Fee. The following is the fee schedule including base per-ton rates to be used to determine the solid waste permit compliance fee. The per-ton rates are based on the estimated solid waste to be received at all permitted solid waste disposal sites and on DEQ's Legislatively Approved Budget. DEQ reviews annually the amount of revenue generated by this fee schedule. To determine the solid waste permit compliance fee, DEQ may use the base per-ton rates or any lower rates if the rates generate more revenue than provided in DEQ's Legislatively Approved Budget. Any increase in the base rates must be established by rule. In any case where a facility fits into more than one category, the permittee must pay only the highest fee:

(a) All facilities accepting or permitted to accept solid waste for final disposal or destruction, excluding transfer stations, material recovery facilities and composting facilities:

(A) The greater of \$200; or

(B) A solid waste permit compliance fee based on the total amount of solid waste received at the facility in the previous calendar quarter or year, as applicable, at the following rate:

(i) All municipal landfills, construction and demolition landfills, industrial landfills, sludge disposal facilities, incinerators and solid waste treatment facilities: \$.21 per ton through June 30, 2016, and \$.58 per ton beginning July 1, 2016;

(ii) Energy recovery facilities. \$.13 per ton through June 30, 2016, and \$.58 per ton beginning July 1, 2016; and

(iii) Conversion technology facilities: \$.10 per ton through June 30, 2016, and \$.58 per ton beginning July 1, 2016.

(C) If DEQ does not require a disposal site, other than a municipal solid waste facility, to monitor and report volumes of solid waste collected, the solid waste permit compliance fee may be based on the estimated tonnage received in the previous quarter or year.

(D) Ash or residue received by a landfill from an energy recovery facility, incinerator, or conversion technology facility is not subject to the solid waste permit compliance fee paid on a per-ton basis under paragraph (B) if the energy recovery facility, incinerator, or conversion technology facility has paid this fee on all incoming waste. Alternatively, DEQ can make



arrangements to split this fee between a landfill and an energy recovery facility, incinerator, or conversion technology facility, based on the proportion by weight of the ash and residue received by the landfill and the total weight of incoming waste received by the energy recovery facility, incinerator, or conversion technology facility.

(b) Transfer stations and material recovery facilities:

(A) Facilities accepting over 50,000 tons of solid waste per year: \$1,000;

(B) Facilities accepting over 10,000 and less than or equal to 50,000 tons of solid waste per year: \$500;

(C) Facilities accepting 10,000 tons or less of solid waste per year: \$50.

(c) Composting facilities with a composting permit, except agricultural composting facilities for which the Oregon Department of Agriculture is providing facility oversight:

(A) Utilizing over 50,000 tons of feedstocks for composting per year: \$5,000;

(B) Utilizing over 7,500 and less than or equal to 50,000 tons of feedstocks for composting per year: \$1,000;

(C) Utilizing over 3,500 and less than or equal to 7,500 tons of feedstocks for composting per year: \$500;

(D) Utilizing over 100 tons and less than or equal to 3,500 tons of feedstocks for composting per year: \$100.

(d) Closed Disposal Sites:

(A) Year of closure. If a land disposal site stops receiving waste before April 1 of the fiscal year in which the site permanently ceases active operations, DEQ will determine a pro-rated permit compliance fee for those quarters of the fiscal year not covered by the permit compliance fee paid on solid waste received at the site. The pro-rated fee for the quarters the site was closed is based on the calculation in paragraph (B);

(B) Each land disposal site that closes after July 1, 1984: \$150 or the average tonnage of solid waste received in the three most active years of site operation multiplied by \$.025 per ton, whichever is greater; but the maximum permit compliance fee is \$2,500.

(7) Per-ton solid waste disposal fees on solid waste. Each solid waste disposal site that receives domestic solid waste for final disposal or destruction, and each person transporting solid waste out of Oregon for disposal at a disposal site that receives domestic solid waste, except as excluded under OAR 340-097-0110(3)(c), must submit fees to DEQ for solid waste received at the disposal site or transported out of Oregon. Beginning April 1, 2019, each solid waste land disposal site that receives construction or demolition waste, land clearing debris, or tires for final disposal or destruction, and each person transporting solid waste out of Oregon for disposal at a land disposal site that receives construction or demolition waste, land clearing debris, or tires for final disposal or destruction, except as excluded under OAR 340-097-0110(3)(c), must also submit fees to DEQ for solid waste received at the disposal site or transported out of Oregon.

(a) These fees include:

(A) A fee of \$.81 per ton through March 31, 2016, raised to \$1.11 per ton beginning April 1, 2016, through March 31, 2019, and raised to \$1.18 per ton beginning April 1, 2019;

(B) An additional per-ton fee of \$.13 for the Orphan Site Account.

(b) Tons subject to these fees include:

(A) All solid wastes landfilled, incinerated without energy recovery or treated for disposal by an Oregon disposal site that receives domestic solid waste, except as excluded in subsections (c) and (f);

(B) All Oregon solid wastes that are transported out-of-state for disposal or destruction at a disposal site that receives domestic solid waste, except as excluded under OAR 340-097-0110(3)(c) and subsections (c) and (f);

(C) Mixed solid wastes that are processed by a conversion technology facility, burned for energy recovery, or composted by an Oregon disposal site that receives domestic waste;

(D) Mixed solid waste that includes at least some domestic solid waste, that has been processed into refuse-derived fuel to be burned for energy recovery by a facility that does not have a solid waste permit, or that does not pay per-ton fees as specified in this section;

(E) Beginning April 1, 2019, all solid wastes landfilled at an Oregon land disposal site that receives construction or demolition waste, land clearing debris, or tires for final disposal or destruction, except as excluded in subsections (c) and (f); and

(F) Beginning April 1, 2019, all Oregon solid wastes that are transported out-of-state for disposal at a land disposal site that receives construction or demolition waste, land clearing debris, or tires for final disposal or destruction, except as excluded in subsections (c) and (f).

(c) Tons not subject to these fees include:

(A) Through March 31, 2019, all solid wastes received at a facility that does not receive domestic solid waste;

(B) Beginning April 1, 2019, all solid wastes received at a facility that does not receive domestic solid waste or construction or demolition waste, land clearing debris, or tires;

(C) Source-separated recyclables or other materials separated and recycled from mixed solid waste, including separated organics that are composted;

(D) Construction and demolition wastes and industrial wastes that are processed by a material recovery facility or a conversion technology facility to make a fuel to be burned off-site for energy recovery (e.g., in a wood fuel boiler);

(E) All solid wastes sent by a disposal site to another disposal site, where the per-ton fees are paid by a disposal site that subsequently receives that waste;

(F) Solid waste used as daily cover at a landfill as described in subsection (f);

(G) Ash from an energy recovery facility or incinerator that has paid these fees; and

(H) Sewage sludge or septic tank and cesspool pumpings.

(d) Submittal schedule:

(A) These per-ton fees must be submitted to DEQ quarterly. Quarterly remittals are due on the 30th day of the month following the end of the calendar quarter;

(B) Disposal sites receiving less than 1,000 tons of solid waste per year must submit the fees annually on January 31. If DEQ does not require the disposal site to monitor and report volumes of solid waste collected, the disposal site must submit with the fees an estimate of the population the disposal site serves;

(C) For solid waste transported out-of-state for disposal, the per-ton fees must be paid to DEQ quarterly. Quarterly remittals are due on the 30th day of the month following the end of the calendar quarter in which the disposal occurred. If the transportation is not on-going, the fee must be paid to DEQ within 60 days after the disposal occurs.

(f) Solid waste that is used as daily cover at a landfill in place of virgin soil is not subject to the per-ton solid waste fees in this section, provided that:

(A) The amount of solid waste used as daily cover does not exceed the amount needed to provide the equivalent of six inches of soil used as daily cover;

(B) If disposed of in Oregon, the solid waste is not being used on a trial basis, but instead has received necessary approvals from DEQ for use as daily cover; and

(C) If disposed of in a landfill outside of Oregon, the solid waste has received final approval from the appropriate state or local regulatory agency that regulates the landfill.

(g) For solid waste delivered to disposal facilities owned or operated by a Metropolitan Service District, the fees established in this section are levied on the district, not on the disposal site.

(8) 1991 Recycling Act Permit Fee

(a) Through June 30, 2016, a 1991 Recycling Act permit fee of \$.09 per ton must be submitted by each solid waste permittee which received solid waste in the previous calendar quarter or year, as applicable, except transfer stations, material recovery facilities, composting facilities, conversion technology facilities that process only separated solid wastes, industrial facilities that do not receive wastes from off-site, and persons with letter authorizations. The fee must be paid along with the solid waste permit compliance fee as specified in OAR 340-097-0110. Disposal sites that receive less than 1,000 tons per year of solid waste for final disposal are exempt from paying the 1991 Recycling Act permit fee for 2016.

(b) Effective July 1, 2016, the 1991 Recycling Act permit fee is eliminated.

Stat. Auth.: ORS 459.045, 459.235 & 468.065

Stats. Implemented: ORS 459.235, 459.236, 459A.110 & 459A.115

Hist.: DEQ 3-1984, f. & ef. 3-7-84; DEQ 12-1988, f. & cert. ef. 6-14-88; DEQ 14-1990, f. & cert. ef. 3-22-90; DEQ 45-1990, f. & cert. ef. 12-26-90; DEQ 12-1991(Temp), f. & cert. ef. 8-2-91; DEQ 28-1991, f. & cert. ef. 12-18-91; DEQ 8-1992, f. & cert. ef. 4-30-92; DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0120; DEQ 23-1993, f. 12-16-93, cert. ef. 1-1-94; DEQ 10-1994, f. & cert. ef. 5-4-94; DEQ 9-1996, f. & cert. ef. 7-10-96; DEQ 17-1997, f. & cert. ef. 8-14-97; DEQ 27-1998, f. & cert. ef. 11-13-98; DEQ 6-2009, f. & cert. ef. 9-14-09; DEQ 4-2010, f. & cert. ef. 5-14-10; DEQ 7-2013, f. & cert. ef. 8-29-13

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