

Toxics Use Reduction & Hazardous Waste Reduction (TUHWR) Act

Questions and Answers



1. What is the Toxics Use and Hazardous Waste Reduction (TUHWR) Act?

The Oregon's TUHWR Act passed in 1989 creating one of the first laws in the nation to mandate pollution prevention planning for certain facilities. Businesses and environmental groups helped develop the law. The Act is a comprehensive approach to reducing pollution at its source by encouraging Oregon's businesses and institutions to make comprehensive changes that reduce or eliminate toxic substances use and hazardous wastes generation.

2. Does the TUHWR Act affect my facility?

The Act's requirements affect three groups:

- *Large Toxics User*: Users of toxic chemicals who are required to prepare a Form R or Form A under the federal Toxics Release Inventory program (Superfund Amendments and Reauthorization Act, Title III, Section 313).
- *Large Quantity Generators*: Facilities that generate more than 2,200 pound of hazardous waste or more than 2.2 pounds of acutely hazardous waste in a calendar month.
- *Small Quantity Generators*: Facilities that generate between 220 and 2,200 pounds of hazardous waste in a calendar month.

Conditionally-exempt generators (CEG) of hazardous waste are excluded from having to comply with the TUHWR requirements. This means they do not have to complete a *Reduction Plan*, *Annual Progress Report*, or a *Pounds Report*, nor do they need to notify DEQ. However, if a facility is a CEG and a large toxics user, the requirements apply unless they have an exemption or special circumstance (see Question 4).

3. What does the TUHWR Act requires facilities to do?

The Act requires affected facilities to develop a Reduction Plan, monitor their progress, and, for some, report on pounds of toxics used. The Act also encourages the same Oregon facilities to continuously improve their operations. Since the adoption of the Act, numerous businesses and institutions throughout the Oregon have reduced the use of toxic chemicals and the generation of hazardous wastes. You can see examples of several success stories on DEQ's Internet site at <http://www.deq.state.or.us/lq/hw/p2successstories.htm>

4. Are there any exemptions or circumstances that apply to my facility where I would not have to comply with the TUHWR Law?

Yes, you would not have to comply with the TUHWR Law if your facility:

- *Manufactured a toxic substance as a product for sale*. This exemption applies primarily to those facilities that manufacture a toxic as their primary product, such a chemical manufacturing companies. Reporting: You do not need to complete a *Reduction Plan*, *Annual Progress Report*, or a *Pounds Report*, but do need to notify DEQ of the exemption.
- *Generates hazardous waste solely as a result of remediation (i.e., environmental cleanup activities)*. This applies to any facility that generates cleanup wastes. However, if the facility

uses toxics or generates hazardous waste from other activities that make them a large toxics user, large quantity generator or small quantity generator, the planning and reporting requirements apply, unless the facility falls under another exemption. Reporting: You do not need to prepare a *Reduction Plan*, *Annual Progress Report*, or *Pounds Report*, but do need to notify DEQ of the exemption.

- *Generates hazardous waste due to a one-time cleanout event.* You can claim this exemption only if your hazardous waste generator status changed from conditionally-exempt generator (CEG) to large or small quantity generator solely due to a one-time generation event, such as a storeroom cleanout or disposal of expired chemical inventories. Please note that these one-time generation events must not occur more frequently than every five years. Reporting: With a one-time event exemption, you do not need to prepare a *Reduction Plan*, *Annual Progress Report*, or *Pounds Report*.
- *Instituted an environmental management system (EMS).* The EMS exemption applies if your facility:
 - ◆ Follows a continual cycle of planning, implementation, review, and improvement;
 - ◆ Documents the evaluation of reduction opportunities for toxic substances used and hazardous wastes generated at the facility; and
 - ◆ Includes a means to implement identified reduction opportunities whenever technically and economically practicable; or
 - ◆ Alternatively, you may claim this exemption by incorporating the standards outlined above as part of an EMS with an independent registration for the ISO 14001 standard.

Reporting: With an EMS exemption, you do not need to prepare a *Reduction Plan* or an *Annual Progress Report*, but do need to submit a *Pounds Report* annually if your facility is a large toxics user or large quantity generator (see Question 2).

- *Implemented a consumer education program to increase demand for less toxic products.* If you are a large toxics user and you have implemented an education program designed to increase demand for a consumer product manufactured at your facility that is nontoxic or less toxic than similar products you currently sell, you must have:
 - ◆ Implemented all technically and economically feasible toxics use reduction and hazardous waste reduction opportunities;
 - ◆ Determined that further reductions can only be accomplished by producing less product; and
 - ◆ Demonstrated that the products being promoted use or release smaller numbers or amounts of toxic substances than *equivalent manufactured products*.

Reporting: You do not need to prepare a *Reduction Plan* or an *Annual Progress Report*, but do need to submit a *Pounds Report* annually.

- *Recently changed ownership and the Reduction Plan prepared by a prior owner is still valid.* DEQ does recommend that the new owner to prepare a *Reduction Plan* if the chemicals or process are substantially different. However, if changes are minor (e.g., name or address changes), a *Reduction Plan* prepared by a prior owner of the facility may be valid with those minor alterations. Reporting: You do need to submit a *Pounds Report* annually if your facility is a large toxics user or large quantity generator (see Question 2).

- *Has moved outside of Oregon or is out of business.* The TUHWR requirements do not apply. Reporting: You do not need to complete a *Reduction Plan*, *Annual Progress Report*, or a *Pounds Report*, but do need to notify DEQ of the status change.

6. DEQ does require any paperwork if I want to claim an exemption or special circumstance?

Yes, you must complete the *Reason for Not Preparing Plan* form, including checking the appropriate box. DEQ staff will contact you to verify your status, and prepare an acknowledgement letter.

7. Who must prepare a *Reduction Plan*, and what is its purpose?

Large toxics user, large quantity generator or small quantity generator (see Question 2) must prepare a *Reduction Plan*, unless your facility has an exemption. The purpose of a *Reduction Plan* is to help your facility reduce its toxic chemicals use and, as a second priority, its hazardous waste generation. The *Reduction Plan* encourages you to review your processes and procedures and make a thoughtful search for reduction methods that you can implement. The Plan should cover a five- to ten-year planning cycle.

8. What are the minimum elements in a *Reduction Plan*?

Minimally, your facility *Reduction Plan* must have the following four elements:

1. Policy Statement. This policy articulates support by your facility's senior management for the *Reduction Plan* and a commitment to implement it.
2. Plan Scope and Objectives. Your Plan should identify and evaluate reduction opportunities and involve employees in reduction awareness efforts.
3. Reduction Evaluations. This is the core part of your Plan. You should first collect and examine data on all types and amounts of toxic substances used and hazardous wastes you generated. The next step is to determine what processes used the toxic chemicals and generated the wastes. Having completed this status review, you can then identify potential reduction or recycling methods. Your Plan should document the rationale for the reduction options you considered:
 - Explain why any of the options considered but not implemented were not technically or economically feasible.
 - Show that toxics use reduction options were given priority over hazardous waste reduction options where feasible.
 - Point out potential cross-media impacts of the options (e.g., shifts in pollutants from sanitary sewer to air emissions, consequences for human health).
4. Implementation Plan. In this part of the Plan, you describe feasible reduction options and provide details (e.g., tasks and dates) on how you will implement the options you selected.

9. Should I let DEQ know that I completed a *Reduction Plan*?

Yes. After completing a *Reduction Plan*, you must submit a *Notice of Plan Completion*, a form provided by and submitted to DEQ. This form is due by September 1 following the calendar year that you first submit to the US Environmental Protection Agency a Form R or A under the toxics release inventory (TRI) requirements, or first report to DEQ that your facility is a large or small quantity generator of hazardous waste.

10. Which toxic chemicals and hazardous wastes should I include in my Plan?

As part of your Plan, you must evaluate opportunities for reducing the use of toxic substances and the generation of hazardous wastes meeting the following quantity thresholds:

- Any toxic substance used in quantities greater than 10,000 pounds a year;
- Any toxic substance used in quantities in excess of 1,000 pounds a year that constitutes 10% or more of the total toxic substances used; and
- For large and small quantity generators, any hazardous waste representing 10% or more by weight of the cumulative hazardous waste stream generated per year.

Toxics use means the use or production of a toxic substance. In practice, this can include chemicals that are used as inputs to a production process, created as byproducts during production, released from the production process, or generated as products for sale.

A *toxic substance* is one that is poisonous or harmful to plant or animal life. The toxic substances you must evaluate in the Plan are the chemicals and chemical categories reportable to the Toxics Release Inventory. On the U.S. EPA's Web site, go to <http://www.epa.gov/tri/chemical/index.htm> for the current list. Please note that facilities with the new TRI persistent, bioaccumulative, and toxic (PBT) chemicals do not need to evaluate them.

The *hazardous wastes* to be evaluated are the D, F, K, P, and U listed and characteristic wastes under the federal Resource Conservation and Recovery Act. On DEQ's Web site, go to <http://www.deq.state.or.us/lq/pubs/docs/hw/SQGHHandbook/SQGChap17A04.pdf> for waste code descriptions.

11. Do I need to prepare an Annual Progress Report and Pounds Report? What is their purpose?

If your facility is a large toxics user or a large quantity generator, you are required to prepare an *Annual Progress Report* and a *Pounds Report*. If you are a Small Quantity Generator, you do not need to prepare either one.

You complete the *Annual Progress Report* to update your *Reduction Plan* (if necessary), estimate the quantities of the toxic substances and hazardous wastes evaluated in your Plan, and analyze your progress in reducing them. You may provide additional descriptive detail on reduction progress and impediments if desired. If, during the calendar year, you use new chemicals or generate new hazardous wastes that meet the quantity thresholds for planning (presented above), you must also include them in your *Annual Progress Report*.

You complete the *Pounds Report* form provided by DEQ to report annually on the quantities of toxic substances you used, based on information from your *Annual Progress Report*. You must submit this information by September 1 of each year. If you were a large quantity generator and did not meet the quantity thresholds for toxic substance planning and reporting, you can check the appropriate box on the *Reason for Not Preparing Pounds Report* form. If you succeeded in eliminating the use of a toxic chemical previously reported, you can highlight this success by entering "0" pounds and explain how you eliminated the chemical. You do not need to report the quantity of hazardous waste generated on the *Pounds Report* form since you report the same information on the DEQ *Annual Hazardous Waste Report*.

12. What is public information and what is not?

Your *Reduction Plan* and associated *Annual Progress Reports* are not public information and should remain at your facility. However, your *Notice of Plan Completion* and *Pounds Report* are public information.

13. Will DEQ review my *Reduction Plan, Annual Progress Reports* or *Pounds Reports*?

DEQ staff may review your *Reduction Plan, Annual Progress Reports, and Pounds Reports* during a technical assistance visit or inspection. DEQ staff can assist you in meeting the planning and reporting requirements, and in correcting any deficiencies.

14. Where can I obtain the statute and regulations?

This fact sheet summarizes the Act's requirements; you should review the statute and regulations for more details. The statute can be found in Oregon Revised Statutes 465.003 to 465.037, and the rules can be found in Oregon Administrative Rules 340-135-0000 to 340-135-0110. Links to both regulations are on DEQ's web site at:

<http://www.deq.state.or.us/lq/hw/toxicsuseandwastereduction.htm>.

15. How can I obtain technical assistance or other information?

DEQ's Toxics Use & Waste Reduction Assistance Program (TUWRAP) provides free technical assistance. TUWRAP staff statewide can help your facility:

- Reduce its toxic substance use and hazardous waste generation;
- Obtain compliance assistance or provide other services (e.g., training);
- Complete or update your Reduction Plan or assist with DEQ reporting; or
- Provide Toxics Use Reduction and Hazardous Waste Reduction forms, or you can visit our the TUWRAP web site at: <http://www.deq.state.or.us/lq/hw/tuwrap.htm>

Eastern Region

- Bend: Jeannette Freeman, (541) 388-6146, x229
- Pendleton: Dan Lobato, (541) 278-4606

Northwest Region

- Portland: David Kunz, (503) 229-5336
- Portland: Rich Grant, (503) 229-5560
- Portland: Peter Anderson, (503) 229-5564

Western Region

- Medford: Lisa Freeman, (541) 776-6010, x239
- Salem: Bart Collinsworth, (503) 378-8240, x258

If you have questions about the Toxics Use & Hazardous Waste Reduction Program, please contact David Livengood, TUWRAP Coordinator, in Portland at (503) 229-5181 or (800) 452-4011 within Oregon.