



State of Oregon Department of Environmental Quality

# Written Comments- Part 1

## Plastic Pollution and Recycling Modernization Act Rulemaking 1

This document is a compilation of written comments received during the formal public comment period for the Plastic Pollution and Recycling Modernization Act 2023 Rulemaking.

### Comments

Grace Dietrich	2
Sergey Yurcha	3
Linda Meier	6
Gail Sabbadini	7
Josh Simpson	8
James Recycling – Kathi Goldman	10
Jonathan Clark	12
Jeff Stone	14
Marion County - Dakota Tangredi	16
Oregon Refuse and Recycling Association – Kristan Mitchell	19
PakTech	160
Direct Pack – Andrew Jolin	165
AMP Robotics – Jonathan Levy	174
Sustana Fiber – Renèe Yardley	186
Umatilla County	187

**From:** [Grace Dietrich](#)  
**To:** [2023 Recycling \\* DEQ](#)  
**Subject:** Please make recycling a reality!  
**Date:** Friday, June 9, 2023 11:53:37 PM

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The idea of recycling is beautiful. The reality of recycling, has yet to live up to this idea...

The only way recycling will work is if everyone involved in the consumption/recycling whole life cycle participates. I really hope this modernization Act can bring all parties on board!

Thank you for trying,

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[Grace Dietrich](#)

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Part; section; subsection; clause	Text	H2C's comment, question, proposal
Responsible End Markets, (1) (d), (e)	<p>(d) For plastic, except for plastic that is recycled to produce packaging for food or beverage applications or for production of children's products, the end market is the entity (typically a reclaimer) that last handles flake or pellet containing recycled plastic prior to sale or transfer to another person that creates a new product either by placing it into a mold or through extrusion or thermoforming.</p> <p>(e) For plastic that is recycled to produce packaging for food and beverage applications or for production of children's products, the end market is the entity that place it into a mold for the manufacturer of such packaging or product.</p>	Do these definitions allow chemical (advanced) recycling?
Responsible End Markets, (2) (a) (C)	(C) Environmentally-sound. Meaning the entity is willing to be audited and monitored for outdoor air, water and land emissions and disposal; stores and manages waste and recyclables in a way that avoids release into the environment; and manages inputs sustainably. This includes demonstrating adequate emergency response and environmental health, safety, and management plans; and	Should noise also be considered?
Responsible End Markets, (2) (c) (C)	(C) Calculation of recycling yield shall exclude any contaminants that are included in the bale of received material, as well as incidental materials that are adhered to the received material but are not targeted for recovery, such as tape and staples on corrugated boxes, or inks and labels on most types of packages.	Should moisture content be excluded in the case of paper and cardboard products and packaging?
Responsible End Markets, (4)	(4) Auditing. To demonstrate compliance with the requirement that materials collected for recycling go to responsible end markets as required by ORS 459A.896(2) and this rule, a producer responsibility organization must conduct auditing and provide audit results in annual reporting to DEQ. These audits must include results of random bale tracking to verify chain of custody and must demonstrate and certify that end markets meet the requirements of section 2 and 3 of this rule. For the purposes of enforcement, DEQ may conduct its own random bale tracking.	<p>We'd like to propose having a harmonized frequency vs quantity among PROs.</p> <p>We also consider a common protocol form implementation as worthwhile consideration.</p>
Responsible End Markets, (5) (a) (A)	(A) Providing financial support to help an existing end market that does not meet the standard for responsible under section 2 of this rule or an existing market that is not in alignment with the hierarchy of materials management, to upgrade or change operations to become responsible or aligned with the hierarchy of materials management.	<p>We'd like to propose excluding this clause as PROs should not financially support the recyclers to upgrade their technologies that don't meet the requirements.</p> <p>To be considered as a recycler for the EPR programme, it is fully the recyclers' responsibility to ensure that their technologies are in compliance with all the requirements .</p>

Responsible End Markets, (5) (a) (E)	(E) Developing a new market for a material.	We'd like to propose excluding this clause as PROs should not be responsible for the development of new markets for specific materials. It's already written that one of the options is <i>Directing materials to an alternative end market if materials are directly under producer responsibility organization control.</i>
Responsible End Markets, (5) (c) (A)	(A) Evaluate the per-ton transactional costs of a proposed solution against the benchmark for average societal benefit of recycling. The benchmark for average societal benefit of recycling at the start of the program is \$2,017 per ton and will be adjusted for inflation no more frequently than once per year.	We'd like to ask you to share the science/calculation behind this number.
Producer Responsibility Organization Coordination, (1) (b)	The Department may assign interim coordination tasks including but not limited to those listed in sub-section (c)(A) of this rule to a producer responsibility organization.	H2C are against this option and we'd like to propose excluding it. A coordination body should be independent and should have auditable financial records and strong confidentiality processes (as they will need each PRO data and cannot share such data with the competitors). Such an option could have a huge adverse impact on PROs with small and moderate market shares. An interim coordinator/coordination body should not have any conflict of interest with any of PROs.
Producer Responsibility Organization Coordination, (1) (b)	When assigning tasks to a producer responsibility organization the department will consider the following criteria during the program plan review:: (A) The qualifications of the producer responsibility organization; (B) The producer responsibility organization's access to financial resources; (C) The initial producer membership of the producer responsibility organization; and (D) The quality of the program plan submitted by the producer responsibility organization.	It is not clear how PROs will be assessed based on mentioned criteria, how to evaluate the criteria, which of them has more value, etc. Criteria are very broad and vague and allow ambiguity.
Producer Responsibility Organization Fees, (2) (a) (A)	(A) In the first program year (covering 2025) the department will send a producer responsibility organization a provisional invoice on or before September 1, 2024. The department will send a producer responsibility organization a final invoice upon completion of the producer responsibility program plan approval process under ORS 459A.878. A producer responsibility organization will pay the first program year's fee within 30-days of the department sending it a final invoice.	On September 1, 2024, the department will have all the plans already submitted with data on covered producers, their packaging types and weight, etc. We'd like to clarify why an invoice should be provisional. We'd like to propose calculating fees based on PROs' data according to plans submitted on March 1, 2024.

<p>Producer Responsibility Organization Fees, (2) (d) (A)</p>	<p>(A) In the first program year the producer responsibility organizations will pay to the department equal shares of the annual administration fee. On or before September 1, 2025, the department will notify the producer responsibility organizations of the interim modified market share calculations pursuant to OAR 340-090-0730(3). The producer responsibility organizations will reconcile payment with each other such that each producer responsibility organization pays a total amount of the annual administration fee that is proportional to its modified market share.</p>	<p>We'd like to propose avoiding this as an unfavourable condition for PROs with small and moderate market shares. And, as it's mentioned above, on September 1, 2024, the department will have all the plans already submitted with data on covered producers, their packaging types and weight, etc., so, at least, preliminary market shares can be calculated.</p>
<p>Reporting for plastic goal</p>	<p>To enable the Department to assess progress toward the statewide plastic recycling goal, a producer responsibility organization's annual reporting of the weight of plastic packaging and food serviceware sold in Oregon by member producers must use a product categorization that aligns with the uniform statewide collection list categorization of products, as required under ORS 459A.887(2)(c).</p>	<p>Should a product categorization according to the Producer Responsibility Organization Recycling Acceptance List be also used?</p>
<p>Market Share (1) (d)</p>	<p>(d) A producer must on an annual basis submit market data establishing the weight of covered products sold or distributed in or into Oregon to the producer responsibility organization to which it belongs. Producers may submit estimates of the weight of their covered product rather than actual data provided that they must submit their estimation methodology to the producer responsibility organization along with the estimate. Estimation methodology must be in accordance with applicable best practices.</p>	<p>Can we and other interested parties get guidance on estimation methodology according to best practices?</p>
<p>Local Government Compensation (4)</p>	<p>(4) Costs to receive, consolidate, load and transport covered products include, but are not limited to, purchasing and maintaining equipment, signage, and other similar costs of operating the recycling depot or recycling reload facility not already covered under other sections of ORS 459A.860 through ORS 459A.975.</p>	<p>If the PRO pays for these dimensions, would those costs be itemized and transparent to the different PROs?</p>
<p>Expansion of Service Funding and Needs Assessment (3) (a)</p>	<p>(a) A local government or a local government's service provider authorized by a local government to provide services which is requesting reimbursement under ORS 459A.890 may not submit a reimbursement invoice to a producer responsibility organization, or coordinating body, more than once per month.</p>	<p>This means a very dense financial control process for PROs. This should be an exclusive task for the coordinating body with PROs paying invoices depending on their market share. The coordination Body needs to be independent, should have auditable financial records and processes with strong confidentiality.</p>

**From:** [Linda Meier](#)  
**To:** [2023 Recycling \\* DEQ](#)  
**Subject:** public comment  
**Date:** Monday, June 12, 2023 12:38:48 PM

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I have long thought that for every product the **full cost of recycling** the packaging, or of processing the waste of packaging should be included when we buy the product. Why? Too expensive and we won't buy it. The producer wants us to buy it so they reduce their packaging costs by using packaging that isn't expensive to them (i.e., packaging that doesn't cost much to recycle it--think paper vs. plastics vs. packaging that degrades by sunlight....). Packaging that can't be recycled should be enormously expensive and the cost of any item packaged in it should be appropriately very costly (e.g., Styrofoam)--because it never degrades and this costs our environment dearly. We need to stop using our earth as a big toilet for our excess.

Devil is in the details as you well know, but figuring out what portion of that cost needs to go to the local/state government(?) to collect, process, reuse the packaging fully or dealing with the non-recyclable waste should be figured out, and given to them at the time of purchase of the product.

As you've noted, we have to figure out what plastics or other packaging actually CAN be easily recycled and refurbished/reused/recreated and if those are the only ones allowed in our state, the producers of product will change to them because they want to sell their product. I believe that OR should stop allowing packaging that can't be recycled--e.g., terrible packaging like Styrofoam. So maybe the conversation needs to start there--exactly what types of "recyclable" materials will be allowed in OR at all? From there, it may be easier to set up an industry that actually WILL recycle the packaging we use.

Thanks for taking this on.

Linda Meier

**From:** [Gail Sabbadini](#)  
**To:** [2023 Recycling \\* DEQ](#)  
**Subject:** Corporate responsibility  
**Date:** Tuesday, June 13, 2023 9:52:47 AM

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Thank you for insisting that some of the corporate profits, made at the expense of polluting public lands and the world's rivers and oceans, are used to clean up and recycle their products.  
Gail Sabbadini

**From:** [Josh Simpson](#)  
**To:** [2023 Recycling \\* DEQ](#)  
**Cc:** [ALLAWAY David \\* DEQ](#); [Doug Kobold](#)  
**Subject:** Comment on Plastic Pollution and Recycling Modernization Act, Rulemaking 1  
**Date:** Monday, July 3, 2023 1:03:23 PM

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Good afternoon -

As a part of your effort to reduce the environmental and financial harm created by poorly packaged products, your process includes a Request for Other Options. The purpose of my participation is to direct your attention to one such option.

The specific area under which this option already exists is the compressed gas cylinder market -> single use 1lb propane tanks -> DOT39 1lb propane tanks. These are the dark green, single use 1lb propane tanks that people use for outdoor recreation. They are typically sold under brand names like Coleman and Bernzomatic (but they are all manufactured by Worthington Industries of Columbus OH).

The option is 1lb propane tank exchange, using 1lb DOT 4BA 240 propane tanks that have been US DOT approved since 2013 and for sale in the United States since 2014. Safe and sustainable reuse of a 1lb 4BA 240 tank is the simple way to shift the use of propane away from single use tanks and substantially reduce the ecological and economic harm created by those dark green tanks.

20lb BBQ tank exchange at a retail store is the most common way for Americans to buy propane for their backyard BBQ and/or patio heaters. American hardware, grocery, and convenience store retailers are already selling 20lb tank exchange in every city in America. The consumers understand the process and the retailers embrace the model. It is not a rental or deposit-based transaction - the customer buys a prefilled tank, uses the fuel and brings the empty tank back for an exchange replacement at a lower cost. The empty tanks are returned to the exchange program for inspection, refilling, and reuse.

[Little Kamper propane](#) is the first company to make 1lb propane tank exchange available for retail distribution. Our program uses a proprietary automated production system to regulate product quality and produce a filled cylinder that is safe for ground transportation, indoor storage, outdoor use, and reuse for up to 10 years. In mature markets, Little Kamper tanks can be reused over 30 times within their service life and each reuse represents one fewer tank in the waste stream.

The Little Kamper business model passes along the full cost of the product to the customer. Delivery cost, to and from the retail stores who sell and exchange the tanks, is included in the retail cost of the program. Little Kamper tank collection pays for itself because the reusable tanks are worth the cost of transportation. Little Kamper tanks are shipped in compliance with US DOT regulations.

In CA, the [California Product Stewardship Council](#) (the CPSC) created a program called Refuel Your Fun ([RefuelYourFun.org](#)) that promotes safe and sustainable reuse of 1lb 4BA 240 propane tanks. Their campaign delivers local outreach, educational resources and targeted promotions in communities that struggle with the 1lb DOT39 waste stream. Counties, cities,



and jurisdictions have used grant funding from CalRecycle to use the Refuel Your Fun program to educate consumers and incentivize the adoption of alternatives to single use 1lb propane cylinders.

Little Kamper 1lb propane tank exchange is available now in stores all over the US, including Oregon. This is the future of 1lb propane and it should be a part of Oregon's strategy to reduce fuel cylinder waste. We welcome inquiries about our program and the opportunity to partner with stakeholders to reduce fuel cylinder waste to protect our parks, campgrounds, communities, and wildlife.

Thank you,

Josh

--

Josh Simpson

Vice President - Marketing  
Little Kamper LP

My name is Kathi Goldman and I am the CEO of a nonprofit called James Recycling. We are a small organization that collects non-curbside plastics from about 400 households and hosts monthly mobile depot events that are open to the public. I co-founded this business with my son James, who is 25 and on the autism spectrum.

The long-term goal of James Recycling is to open permanent community recycling drop-off depots, where the public and small businesses can bring their separated, non-curbside plastic for recycling. The vision is for these depots to be staffed by adults, like James, who have developmental differences along with their trained aides or work coaches. Adults with developmental differences are hugely underrepresented in the workforce. This inequity transcends all races, religions, and people of color. These depots would provide the public with a place to drop off hard-to-recycle plastic items (that are recycled through local markets in Portland, Oregon) and give job opportunities to people who are often overlooked.

The RMA will substantially change how Oregon's recycling system operates and recognizes that many of the materials on the universal statewide collection list (USCL) will likely not be collected curbside, but rather will be collected through permanent fixed-location recycling depots. The RMA also states that the Producer Responsibility Organization which will oversee these collections is required to give priority to existing depots. I would like to share my experiences in trying to become one of these existing depots.

James Recycling has been collecting several of the items that are on the proposed USCL list for years. Our system for sorting and transporting these items is fine-tuned and comes from the experience of having monthly events that bring in between 300-500 residents, and thousands of pounds of materials that we responsibly recycle. We can handle the capacity and challenges. Having the opportunity to grow and integrate our knowledge and experience into the goals of the PROs, including the goals of equity and inclusion, would not only be an asset to the communities we serve but would be a chance to change the lives of people who are marginalized and overlooked by providing meaningful employment.

Locating and siting recycling collection depots is not an easy feat. The existing recycling laws don't seem to address specifics of what is required to establish a depot, nor are "depots" clearly defined. We have been attempting to establish a depot for several years. Last summer, we found an affordable space in unincorporated Washington County within the City of Beaverton. The City of Beaverton told us that we would be required to complete a Directors Interpretation Application to determine if our depot should be classified as a service business or a waste transfer station. The application fee is between \$5000-\$11,000 per location. There is no exception for a nonprofit organization and no guarantee that they would even allow us to operate. The application would also take around 2 months to process. Next, we approached the DEQ to determine what permits we would need to operate, hoping that having a permit to operate from DEQ would help with siting at the local level. We were told that they would classify our depot as a waste transfer station and we would need to obtain a DEQ solid waste permit prior to operating at the location we had found. Obtaining a solid waste permit would include getting a land use compatibility form signed by the local government, a written recommendation from the local solid waste planning authority, and addressing issues such as access roads and drainage, along with a 3-month public comment period.

Because of these obstacles, we were not able to sign the lease at the location we had found, and it was subsequently rented.

Our plan is simple - we want to find a space, set up frames with bags, have people bring their sorted recycling and put the items inside the bags, then take the bags to a responsible end market. That's what we do for our mobile collection events, and what we would continue to do at a permanent recycling depot.

SB 582 defines a **depot** as "a location where recyclable materials are accepted from the public or commercial businesses and transported to a location for processing or to an end market"

It defines a **recycling reload facility (ie waste transfer station)** as a facility other than a recycling depot where recyclable materials are received, consolidated, and made ready for transport to another location for processing or to a responsible end market.

By the definitions in SB582, the operations we describe clearly fit in the depot category. However, with the classification of a waste transfer station, our chances of pushing past the barriers we face are slim.

I know that the terms used to define a depot are still evolving, but I ask the rule-making committee to consider businesses like ours that are being put in a position that makes it impossible to succeed.

Equity and inclusion are admirable and necessary goals to have, but putting those goals into action and actually making that difference is the larger challenge.

I have been surprised and disappointed by the lack of support and the inflexibility of local and State governments to work with us.

Sincerely,

Kathi Goldman  
CEO James Recycling

**From:** [Jonathan Clark](#)  
**To:** [2023 Recycling \\* DEQ](#)  
**Cc:** [Sen Sollman](#); [Rep Sosa](#); [Debby Garman](#);  
**Subject:** Public Comments regarding DEQ's Plastic Pollution and Recycling Modernization Act of 2021  
**Date:** Monday, July 17, 2023 4:07:51 PM  
**Attachments:** [2023-06-24-103750\\_DEQ-PRO-RecyclingDiagram.png](#)

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Dear Roxann and DEQ,

Thank you for extending the deadline for public comments regarding the plan for modernizing plastic recycling in Oregon. I would not have been aware of it, except that my State Senator, Janeen Sollman, mentioned it in her newsletter a while back-- thank you Janeen!

I have read the implementation proposal and I have a few concerns.

First of all, **there are no plans to phase out plastic products that are derived from petrochemicals**. Any plastics that come from fossil fuels are unsustainable and will cause further damage to the planet. Once petrochemical plastics are introduced into our economy, they directly pollute our land and water. Microplastics can be found almost everywhere on our planet and have become a part of our food chain, directly impacting human health. Petrochemical plastics may also get incinerated, releasing the fossil carbon into the atmosphere and worsening the effects of the Climate Crisis. Plastic waste is a biohazard and should be reclassified and treated as such.

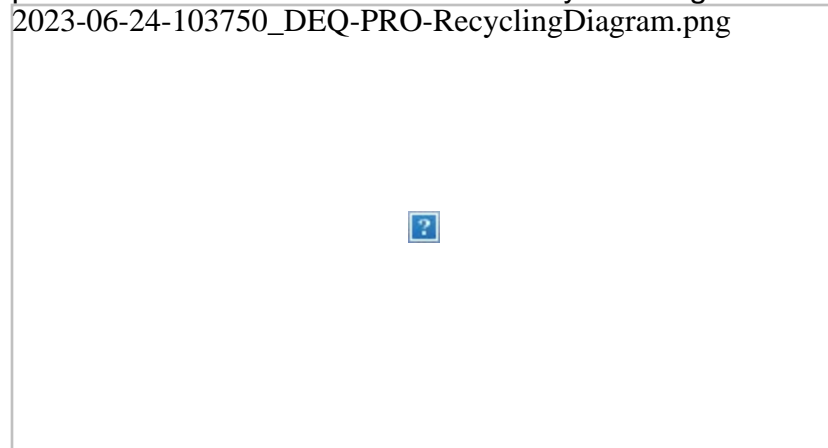
Plastics are unique in regard to recycling. Unlike metals and glass, they currently can only be "down-cycled" at an industrial scale (while metals and glass can be recycled indefinitely). Any hydrocarbons, including plastics, can be used for waste-to-energy "recycling", but if these hydrocarbons are derived from fossil fuels, then they will contribute to the Climate Crisis. **Our recycling program must extend further to the sources of plastic pollution, phasing out and banning all new petrochemical plastics as quickly as possible.**

Secondly, the recycling goals of the Plastic Pollution and Recycling Modernization of 2021 currently range from 25% to 60%. This is not sustainable long-term. If we are to truly modernize our recycling, then we must strive for solutions approaching 100% recyclability in order to create "closed loop" systems that can be sustained indefinitely. To not do this, we are leaving behind a legacy of garbage that will burden future generations.

A truly modern, sustainable recycling program would require environmentally safe "chemical recycling" of plastics and other hydrocarbons, (perhaps the use of hydrothermal carbonization (HTC), pyrolysis, biological recycling processes, and/or other processes, which are still unknown or under-developed). **In order to truly recycle plastics, they must be chemically reverted back to a usable, "virgin" form for manufacturing uses.** Not all forms of chemical recycling are safe or environmentally-friendly either. Since sustainable chemical recycling may not yet be

fully available or scaled up to industrial levels, multiple research grants should be pursued to find the best solutions that will work for Oregon and other States. **In the meantime, we cannot rely on plastic producers to "do the right thing" and trust that they won't just pass on PRO costs to their consumers.**

Third, the implementation of this program still relies on the use of landfills and has no plan for landfill reclamation as shown by this diagram in the DEQ plan:



Landfills are not even part of the PRO process. A modern recycling program must include **landfill reclamation** in order to undo the pollution of the land and also reduce greenhouse gases, mainly methane emissions, that landfills produce.

In conclusion, while I celebrate any impactful improvement to our recycling programs in Oregon, our goals as a State must be higher and attempt to reach 100% sustainability as quickly as possible. Anything less than that is unethical and shifts the burden of our pollution to innocent people who have no say in the matter, many of whom have not even been born yet.

Our recycling programs must also be easy, cheap, and readily available to all people, in order to ensure that everyone participates.

I urge the DEQ, and our legislators, to set the goals of this program higher. We must adopt better programs and policies and invest in better technologies in order to reach 100% sustainability.

Sincerely,  
Jonathan Clark

CC: Senator Sollman, Representative Sosa, Debby Garman (350PDX), and Nick Keenan (Climate Reality)

July 21, 2023

Oregon Department of Environmental Quality  
Office of Materials Management  
Via email to [recycling.2023@deq.oregon.gov](mailto:recycling.2023@deq.oregon.gov)

Re: Proposed Rules Recycling Updates 2023

My name is Jeff Stone and I serve as the Executive Director of the Oregon Association of Nurseries (OAN). On behalf of OAN, thank you for the opportunity to submit comments regarding DEQ's proposed "Recycling Updates 2023" rulemaking. Today, we write in support of DEQ's recommendation to add nursery (plant) packaging made of HDPE (#2) or PP (#5) to the Uniform Statewide Collection List (USCL).

### **Background on the Nursery and Greenhouse Industry**

The nursery and greenhouse industry is the state's largest agricultural sector, with over \$1.3 billion in sales across the nation and the globe. Nationally, Oregon ranks third in nursery production. Nearly 80% of the nursery stock grown in our state leaves our borders – with over 50% reaching markets east of the Mississippi River. The nursery industry employs more than 22,000 full time workers with an annual payroll over \$327 million. We send ecologically friendly, carbon sequestering, green products out of the state, and we bring traded sector dollars back to Oregon. Nursery association members represent wholesale plant growers, Christmas tree growers, retailers, and greenhouse operators. Our members are located throughout the state, with our largest nursery growing operations found in Clackamas, Marion, Washington, Yamhill, and Multnomah Counties.

### **DEQ's Recommendation**

OAN supports DEQ's recommendation to add nursery (plant) packaging made of HDPE (#2) or PP (#5) to the Uniform Statewide Collection List (USCL). In the Portland Metro area and Bend, nursery packaging is already accepted for on-route collection. The OAN views the addition of nursery packaging made of HDPE (#2) and PP (#5) to the USCL as a benefit to customer convenience and opportunity to increase nursery pot recovery and recycling. OAN hears the remaining concerns of nursery pot contamination within the commingled system. As such, OAN supports the recommendation that users must remove dirt and/or plant material prior to recycling.

### **The original environmentalists can help**

The OAN and its membership believe that climate changes are happening, right here in Oregon and across the globe. We see it with new pests and diseases not previously encountered, we are active in stretching our water resources through technological innovations, and we adopt practices that actively reduce our GHG emissions. Across our nation and across the globe, Oregon's nursery products not only sequester carbon emissions when they are being grown, but they continue to do so through the life of the plant or tree at their destination. The OAN's commitment to being a partner on climate mitigation has been decades in the making. We

know the benefits of plants and trees within our environment, whether that is saving energy costs, improving air quality or purifying water. In turn, OAN believes in increasing access to recycling nursery packaging, which is achieved by adding nursery pots made of HDPE (#2) or PP (#5) to the USCL.

OAN is proud to submit comments in support of the inclusion of nursery packaging to the USCL. We thank DEQ for their intentional outreach to OAN as the discussion on nursery packaging began and for the opportunity to partner in this discussion.

Thank you for your time and consideration.

Best,

Jeff Stone  
Executive Director, Oregon Association of Nurseries

**From:** [Dakota Tangredi](#)  
**To:** [2023 Recycling \\* DEQ](#)  
**Subject:** Public Comment on first rulemaking from Marion County Environmental Services - Waste Reduction Program on Recycling Modernization Act  
**Date:** Tuesday, July 25, 2023 9:12:15 AM  
**Attachments:** [image001.png](#)

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Hello,

I hope this email finds you well. My name is Dakota Tangredi and I work as a Waste Reduction Coordinator with Marion County, OR local government. I would like to submit a comment on behalf of Marion County regarding the following rule citation proposed in the first Recycling Modernization Act rulemaking session:

Rule citation for expanded depots currently proposed in rule, OAR 340-090-0040 (3) (g).

“(g) Establish depots for recycling collection of all ~~principal recyclable materials listed in OAR 340-090-0070~~ materials listed identified in OAR 340-090-0630(4~~2~~) (a), and where feasible, additional materials, except that used oil need not be collected at the depot if another location within the local government unit will accept used oil for recycling. This program must provide at least one (1) recycling depot in addition to the depot(s), if any,



required by OAR 340-090-0030(1). For any city with a population of 50,000 or more, the minimum number of additional depots must be equal to the city's population, divided by 25,000, and rounded down to the nearest whole number. The expanded depot program must include promotion or education that maximizes the use of the expanded depot program. The depots must operate as follows:"

Marion County recommends that the section in OAR 340-090-0040 (3)(g) "except that used oil need not be collected at the depot if another location within the local government unit will accept used oil for recycling" consider the addition of two materials: scrap metal and appliances as an exception not to be collected at the depot if another location within the local government unit will accept used oil, scrap metal, and appliances for recycling. The revision would therefore read as:

"except that used oil, scrap metal, and appliances need not be collected at the depot if another location within the local government unit will accept used oil, scrap metal, and appliances for recycling."

Marion County cities and franchised garbage and recycling haulers that have smaller recycling depots open to their customers or Marion County residents have voiced concern over the potential of an undue labor and administrative burden to their operations if the language remains as has been proposed in the rulemaking session. This would be because smaller, unstaffed depots would not be able to accommodate hard to manage items like scrap metal or appliances that aren't listed in the exception list. Fortunately, Marion County local government has two transfer stations, North Marion Recycling and Transfer Station and Salem Keizer Recycling and Transfer Station that take scrap metal and appliances and already accommodate these items in their daily operations with the public. These transfer stations could therefore serve as acceptance sites for these exception materials.

Additionally, leaving the rule citation as currently proposed would have negative consequences with regard to cities' ability to comply with annual Opportunity to Recycle requirements. Currently, cities with expanded recycling depots in their local area are able to claim recycling program element g "Expanded Recycling Drop-Off Depots" OAR 340-090-0030 (1) to comply with minimum recycling program element requirements under the Opportunity to Recycle Act. If cities or franchised garbage and recycling haulers with small recycling depots would be

required by law to take scrap metal and appliances without any exceptions for other established depots that take these materials and couldn't accommodate and accept the hard to handle materials, they would be forced to forfeit their claiming of program element g and instead choose a different recycling program element to meet compliance. This need to choose a new recycling program element will cause undue administrative burden as many cities do not have a recycling compliance focused staff member, and program elements chosen by cities tend to be longstanding, legacy programs that weren't expected to change with their current staffing capacities.

Thank you for your consideration. If you have any questions on Marion County's proposed comment, feel free to reach out to myself over email.

Warmly,

Dakota Tangredi





## OREGON REFUSE & RECYCLING ASSOCIATION

July 25, 2023

Ms. Roxann Nayar, Oregon DEQ  
700 NE Multnomah ST #600  
Portland, OR 97232

Via email only: [Recycling.2023@deq.oregon.gov](mailto:Recycling.2023@deq.oregon.gov)

RE: Comments on RMA RAC #1 Notice of Proposed Rules

Dear Ms. Nayar:

Thank you for the opportunity to offer comments on the Notice of Proposed Rulemaking to clarify and implement the Plastic Pollution and Recycling Modernization Act of 2021 (RMA).

Oregon Refuse and Recycling Association (ORRA) is the statewide trade association representing solid waste management companies in Oregon. ORRA members collect and process most of Oregon's residential and commercial refuse and recyclables, as well as operate material recovery facilities, compost facilities, and many of Oregon's municipal solid waste transfer stations and landfills.

Two ORRA members – Mike McHenry (Pendleton Sanitary Service) and Jeff Murray (EFI Recycling) – served on the first Rulemaking Advisory Committee (RAC). I served on the RAC as well, in my capacity as ORRA's Executive Director and CEO. In addition to the three ORRA-related people serving on the RAC, ORRA has a larger group of members dedicated to reviewing the work of the RMA RAC. The three ORRA-related people serving on the RAC each has over 30 years working on these issues, and the larger ORRA group has similar years of experience.

Most of the members of the larger ORRA group actively participated in conversations and worked to develop the RMA since the convening of the Recycling Steering Committee to address China's National Sword policy. ORRA's group of experts has devoted many hours to reviewing documents, discussing possible outcomes, and offering feedback and solutions, both during RAC meetings, formally submitting comments, and in multiple meetings with DEQ staff.

ORRA appreciates the work that DEQ has done, and is doing, and recognizes that many other interested parties are also working hard to implement the RMA. We all have the same goal – implementing a complex law designed with shared responsibility at the forefront, to improve the sustainability and resiliency of Oregon's recycling system. ORRA offers these comments in the spirit of that shared goal, and we look forward to continuing as a partner in this effort.

ORRA previously submitted comments on February 1, March 24, and April 18, and they can be found on DEQ's website under "Written Comments" for the January, March, and April meetings at: <https://www.oregon.gov/deq/rulemaking/Pages/Recycling2023.aspx>. ORRA incorporates those comments by reference into this document. These comments, dated July 25, 2023, include issues of ongoing concern that are not adequately addressed or resolved in the proposed rule, as well as suggested amendments to the draft rule itself.

ORRA is commenting on the following topics in this document:

1. Process and timing concerns.
2. How to respond to those concerns to achieve success.
  - A. Acceptance Lists and the USCL.
    - a. Trial or Research Program and SIMs.
  - B. Responsible End Markets.
3. Other Comments.
  - A. Potential cost impacts.
  - B. Indirectly Affected Parties
4. Track Changes Rule Attachment, with Amendment Explanations and Table of Contents.

**1. Process and timing concerns.** If unchecked, process and timing concerns may jeopardize the successful implementation of the RMA. During the RAC process, ORRA and other RAC members noted that the RAC process moved too fast for well-considered input. The pace of the RAC meetings and the amount of complex, detailed, and sometimes highly technical materials the RAC was expected to review, digest, and understand in advance of the meetings, in order to have thoughtful discussions, combined to threaten the value of the RAC's input. This led to frustration with the process, an ongoing concern throughout the RAC process.

The speed of the process and the RMA's statutory deadlines led to DEQ's approach of standing up multiple projects all at once. Then, and now, ORRA's concerns revolve around the establishment of the Recycling Acceptance Lists, in particular the Uniform Statewide Collection List (USCL), and timing of action required of Producer Responsibility Organizations (PROs), Local Governments (LGs) and their service providers, and Commingled Recycling Processing Facilities (CRPFs). This group of concerns is foundational to successful implementation, and ORRA maintains the approach to rulemaking on these topics is "out of order."

A critical example of process and timing concerns is the Local Government Needs Assessment Survey. This survey was released by DEQ in January 2023 with an initial survey return deadline of March that got extended to mid-April. Local government compensation is a core element of the first rulemaking. It was extremely difficult for local governments and their service providers to know how, and which, services would need to be expanded or enhanced without certainty on elements such as which materials will be included on the Local Government, USCL, and PRO acceptance lists, and convenience and performance standards for depots.

These elements, essential to understanding and responding to the survey, were not scheduled for EQC consideration and adoption until Fall 2023. Despite that timing, if local governments did not submit the survey by the April deadline, the consequence was they would not be eligible for PRO funding until 2027, and they would not be granted the grace period for extending implementation of the new requirements beyond July 1, 2025. While ORRA members worked closely with local government partners to ensure a high response rate to the survey, the timing of being required to submit the survey prior to decisions being made on foundational elements of the RMA will likely have ramifications for successful implementation of the RMA.

ORRA's position is that the correct order would have been first to establish Recycling Acceptance Lists and the USCL. Next, LGs would perform their Needs Assessment to determine requirements

based on the materials to be recovered, and CRPFs would determine requirements and potential PRO funding to recover the materials. Finally, PROs would know the potential costs based on all of this information in order to establish fees that producers will pay in support.

Instead, the Acceptance Lists won't be set until these rules are adopted in November 2023; the LG Needs Assessment deadline has already passed; the CRPFs will be required to accept all USCL materials on July 1, 2025, regardless of readiness to recover the materials; the PROs are expected to complete three year budgets by March 2024 with little information to do so; and PRO funding will not be available until after the program launches in July 2025.

**2. How to respond to concerns to achieve success.** ORRA understands the statutory deadlines DEQ is required to meet, and opinions may vary on the best approach of how to get there. DEQ has taken a step toward acknowledging some of these difficulties by offering a transition period proposal which allows some flexibility in enforcement through the end of 2027. This will assist, at least partly, but more must be done to make sure the RMA launches successfully. ORRA does not have solutions for all of the concerns noted, but ORRA does offer more discussion and solutions for some of them.

ORRA shares in the aspiration of the RMA: that Oregon continues to be a leader and environmental steward in creating a transparent system that fosters environmentally beneficial recycling, beginning with how materials are labeled and packaged, to the choices consumers make, to ultimately getting materials to responsible end markets. ORRA offers amendments to these rules with the goal of ensuring that changes to Oregon's recycling system are made in a way that is transparent and truthful so that the public has a high level of confidence and trust that what we are collectively saying can be recycled is, in fact, recycled responsibly.

**A. Acceptance Lists and the USCL.** A significant concern during the RAC process was the lack of adequate time for evaluation of the proposed recycling materials acceptance lists, and in particular, the USCL – the RAC never finished discussion about items proposed for the USCL at any RAC meeting, even after an additional meeting was added to the schedule. This is the result of having too much to consider in too short a timeframe. However, that does not change the fact that the USCL is foundational to implementing the RMA – it is the statewide recycling list, the heart of the program for Oregonians.

ORRA raised concerns at every possible meeting about the USCL from the time it was introduced at the November 9, 2022, meeting. DEQ consistently responded that changes could occur during discussions, or in these draft rules, but from that entire list, it appears that in the Recycling Acceptance List Fact Sheet issued as a supporting document to the proposed rules, the only two changes that have been made since it was introduced are dropping LDPE and adding “caps.”

**ORRA has previously and repeatedly commented that four types of materials on the proposed USCL list are not ready to be included on the inaugural list: paper cans; cartons and aseptics; nursery packaging; and cups.** Before they are added, customers must be able to identify them, CRPFs must be able to sort them, and there must be stable, available markets for them. These four materials are marginal, or emerging at best, and while the quantities are admittedly small, the potential for the materials becoming contamination is great, given current limitations on technology as well as market issues.

DEQ stated at the January 11 RAC meeting that if members have evidence to dispute why a material should not be added to an acceptance list, to offer it. However, ORRA contends that is the role of the DEQ, or of a process to prove a market – noting the existence of markets is not the same as providing evidence that those markets will be accessible to Oregon’s programs in 2025.

ORRA’s position is that neither DEQ, nor RAC members, have evidence to support the USCL list as recommended by DEQ. However, during the RAC, ORRA did attempt to get answers to some concerns related to aseptics and cartons, in order to make determinations about materials that will be sorted and marketed from Oregon. In February 2023, ORRA initiated discussions with the Carton Council and then facilitated a Carton Council consultant’s tour of every Material Recovery Facility (MRF) in Oregon, as well as some that are in planning stages, to look at capacity, sorting needs, and potential recovery of aseptics and cartons, contemplating that incoming aseptics and cartons will increase at MRFs if they are added to the USCL.

Tours and discussions were completed over the week of May 15 with nine facilities, and three more were willing to meet remotely to accommodate the consultant. As recently as last week, ORRA asked the consultant whether there is any information available from that effort that could be referred to in this comment; ORRA did not receive any information, and the participating MRFs have all responded that they have not received a report with the findings. Therefore, ORRA is still unable to verify any new information for these materials, despite this effort.

**a. Trial or Research Program and SIMs, p.174, l.9 to p.175, l. 11 of ORRA’s “track changes” rule.** During the RAC process, ORRA first recommended a phased-in approach to adding these four marginal or emerging materials. Next ORRA suggested a pilot project. Finally, ORRA advocated to use the trial or research collection program option as established at ORS 459A.914(6), in order to prove the materials are ready for adding to the USCL. All of these recommendations have been made with the same goal: ORRA is looking for a reasonable, practical way to address the issues around the timing of RMA implementation. If we are designing for a program that starts in 2025, what must happen to ensure any material added to the acceptance list can be recovered by then? ORRA, as the rest of the RAC and DEQ, has been working in good faith looking for positive outcomes in a modernized system, and ORRA recommends this is the best approach at this point to achieve successful outcomes.

The trial or research program at ORS 459A.914(6) states:

- (6) A material that is not identified for collection as part of a commingled recycling program on the uniform statewide collection list may be collected as part of a commingled recycling program if:
  - (a) The material is collected as part of a trial or research program;
  - (b) The trial or research program is of limited duration; and
  - (c) The trial or research program is conducted in a limited area.

Adopting the trial or research option will allow all of Oregon’s recycling system to study the materials in a limited area (but one large enough to provide good data) in order to determine if they meet the criteria to be added to the USCL. The test area is the metro-region, where customers are currently able to put two of the four marginal materials in their curbside collection programs (paper cans and cups would be new). Allowing the materials to continue commingled collection in the trial or research

program keeps from disrupting those customers, while allowing time to confirm whether the items meet the criteria and can be collected in the USCL. Also, as other items may be tested in the future for addition to the USCL, this would provide the opportunity to “test the test” now.

ORRA is not saying "no" to materials; we are saying let's see how it works, and if it doesn't, let's fix it, and recognize that getting it right takes time, and money, and a process. ORRA does not believe in forecasting material acceptance list changes based on where we hope to be in the coming years - we have to build the bridge to get there from where we are now.

In conjunction with the trial or research program, ORRA will also request that DEQ designate the four noted items as Specifically Identified Materials (SIMs) pursuant to ORS 459A.917. This designation will focus extra attention on the materials to ensure they are successfully recovered. During the RAC process, DEQ stated that such designations would be expected to occur in Fall 2023, in order to allow the PROs time to plan for, and address how to manage the SIMs before submitting PROs plans in March 2024, and before the program begins in July 2025.

There are many benefits to taking this two-pronged approach of the trial or research program and SIMs designation:

1. As noted, those materials already on the metro-area program lists could continue to be collected, and the new materials could be added. The time for the trial program would be limited. This would meet the statutory requirements of limited area and limited duration.
2. This pathway would give these marginal or emerging materials the PROs support required as SIMs to prove that they are ready to be on the USCL.
3. There would be an opportunity for processing to get up to speed to meet the new requirements – whether sites add processing equipment, add sorters, or move materials to secondary processing.
4. Markets that at this point are still unproven would be tested in a practical, real world way, instead of the theoretical, academic approach of what should work based on what we have been told in this rulemaking. Do the promised markets really function? Do the yields meet the goals? Will Oregonians' materials be responsibly recycled?
5. Proving up what we have been told will meet another vitally important element of the RMA – developing a transparent program that builds the confidence of Oregonians in the recycling system.
6. If the SIMs are successful, the USCL could be updated to include them, as the RMA provides for on-ramps to do that. The uniform, statewide list would be in place and collected by January 1, 2028.

Adopting a trial or research approach is critical to restoring Oregonian's confidence in our recycling system. ORRA has requested and continues to request that this should be the process for all marginal and emerging materials, the protocol by which materials are reviewed to add to the USCL in the future. This may also be a viable process for removing materials from the USCL, as resiliency requires both on ramps, and off ramps, for materials, and a way to test them as objectively as possible. Politics should not determine lists.

**C. Responsible end markets – p.186, 1.3-28 of ORRA's “track changes” rule.** The next recommendation ORRA offers to respond to how to overcome concerns to achieve success is how

responsible end markets are defined. Responsible end markets are an important component to the RMA – all system participants want to ensure they are telling the truth when they tell customers that materials are being recycled. Sharing honest information about recycling outcomes will allow all of us to restore public trust in Oregon’s recycling system.

The question is how far regulation of the RMA should extend to determine what a responsible end market is, and at what point that regulatory obligation is satisfied. **ORRA recommends that the obligation is satisfied at the point where the recycling material is initially converted from its original form to a recycled feedstock – beyond that point, the material is no longer a waste, it is a commodity.** The exceptions are for plastics (other than PET, Polypropylene and HDPE bottles), as well as Specifically Identified Materials (SIMs); they should be followed to final disposition due to the volatile nature of those immature markets.

Except for the plastics as noted and SIMs, ORRA recommends ending RMA oversight at the conversion point because the environmental impacts occur when converting the material into recycled feedstock. The conversion process removes and disposes of any remaining contaminants, and produces a recycled feedstock comparable to virgin material to be used in a manufacturing process. The RMA intended that this conversion, including any waste generated from it, would be managed in an environmentally responsible way, and verifying that can be accomplished by use of a third-party audit or similar.

Asking recycling system participants to go beyond “recycled feedstock” to determine responsible end markets adds another level of cost as well as complexity that should not be required. For those who wish to follow the trail to the final disposition, ORRA recommends using a certified third-party auditor, such as Orion Registrar, Inc., or Perry Johnson Registrars, Inc. Those so inclined may wish to follow the process to final disposition in order to showcase circularity or for some other reason – while this is of interest, it should not be a requirement for all Responsible End Markets.

For plastics other than PET, Polypropylene and HDPE bottles, as well as SIMs, ORRA agrees with DEQ’s original approach, following the material from collection to final conversion to a new product containing recycled content. The reasons to continue following these plastics and SIMs to final disposition are that the collected materials and the process to convert them to recycled feedstocks are immature and less stable than the long term, traditional recycled feedstocks and markets, and the public is distrustful of claims that they are in fact recycled. Once a material has a track record of proven recycling, then DEQ should consider ending the tracking at the point of conversion. This could be a decision considered by the Oregon Recycling System Advisory Council (ORSAC) to recommend to the EQC, for example.

### **3. Other Comments.**

**A. Potential cost impacts.** While ORRA realizes the difficulty in analyzing potential cost impacts of the rule, DEQ has consistently asserted within presentations and conversations both within the RAC process and outside of that formal forum that because producers will be responsible for many of the costs to implement the RMA, ratepayers may see decreases in rates as a result of the new law. Throughout the process to develop and implement the RMA, ORRA has maintained that we do not



know what the impact to Oregon consumers will be and DEQ should be transparent that potential cost increases or decreases are unknown at this time.

Within the Statement of Fiscal Impact, DEQ offers conflicting information. “One potential negative impact on the public depends on whether and how producers pass on additional costs to consumers in Oregon. This has been difficult to estimate...A DEQ-commissioned study comparing shelf prices for the same items sold by the same retailers in Canadian provinces with vs. without packaging PROs and producer fees found minimal correlation between product-specific fees (paid by producers) and differences in retail shelf prices.” (page 12, second paragraph). ORRA has questioned the value and relevancy of this referenced study to Oregon’s RMA. In addition, DEQ stated during the April 11 RAC meeting that there was no attempt to quantify shelf price changes in Canada.

The quoted statement above is vague, it starts as a possible negative, but ends dismissing that by referencing one review of Canadian product pricing, converting the statement to a positive, or at least neutral statement. It is helpful that DEQ also notes in that same paragraph that “Economic theory predicts that a portion of producer costs will be passed on to consumers in the form of higher shelf prices, although producers that sell into multiple states may recover these costs across customers in multiple states, thereby reducing price impacts on the public in Oregon.” This is at least some recognition that costs may be passed along to consumers.

Another example is a statement that the improvements in Oregon’s recycling system will transfer some expenses from ratepayers to PROs and, “All other things being equal, this should reduce the rates charged to ratepayers, such as households and businesses.” (page 12, first bullet under “Anticipated positive impacts”). There is a Footnote “5” to this bullet that states, “It should be noted that in some communities, such as those that make significant expansions or changes to on-route recycling services, rates paid by ratepayers may rise as a result of the Act. In addition, waste collection rates reflect a number of factors which these rules do not effect, such as the price of diesel and the cost of disposal. For that reason, rates charged to users in various Oregon communities may go up or down for reasons largely unrelated to the Act.”

ORRA agrees that all other things are likely not equal – labor, cost of trucks and fuel, inflation, are all components of the rates paid by customers, and there are intricacies of how ratemaking works in every jurisdiction that should be considered. This is an example of what DEQ does not know, and therefore should not be written as a positive statement that could turn into the sound bites that become the expectation of customers.

**B. Indirectly affected parties.** Within the proposed rule (page 2) “Commingled recycling processing facilities” are identified as indirectly affected parties. ORRA offers that these facilities are directly affected by the proposed rule. Commingled recycling processing facilities are clearly identified throughout the proposed rule, as well as within the Statement of Fiscal and Equity Impact as being directly affected by implementation of the RMA. This direct impact is illustrated throughout the narrative and ORRA’s “track changes” rule version included with these comments. Specific examples within the Statement of Fiscal and Economic Impact include, “The Act requires producers of covered products to support and expand recycling services for their products in Oregon and requires local governments and the facilities that process commingled (mixed) recyclables to adhere to several new requirements.” (Overview, page 4).

In addition, the Statement of Fiscal and Economic Impact states that “DEQ is unable to estimate the extent of the impacts because of the Act’s integrated components and the concurrent changes (e.g., new permitting requirements for commingled recycling processing facilities and system efficiencies that will occur.” (page 9, third bullet under section “I”). This is acknowledgement that there will be impacts to the MRFs, even though those impacts cannot be fully quantified at this time. This lack of data to fully quantify impacts to the commingled processing facilities is noted within the anticipated business impacts to both large and small businesses.

For customers who recycle in Oregon, and end markets and people who live in communities where end markets are located, Oregon’s actions have an impact globally in our focus on a circular economy. Our shared aspiration with the RMA is that Oregon continues to be a leader and environmental steward in creating a transparent system that fosters responsible recycling from how materials are labeled and packaged, to the choices consumers make, to ultimately getting materials to responsible end markets.

**4. Track Changes Rule Attachment, with Amendment Explanations and Table of Contents.**

Attached to the comments are ORRA’s track changes version of the draft rule, including explanations by page and line for each change; if there is a comment only it is highlighted in yellow. ORRA prepared and attached a Table of Contents as well, for ease of reference.

In conclusion, this rulemaking process has been intense, technical, and demanding for all participants. ORRA appreciates the work of the DEQ, as well as every RAC member and every other person attending meetings to add to their understanding of this program and bring their best ideas to this effort to modernize Oregon’s recycling system. There is still a lot to be done, and ORRA and its members are committed to working together to complete this effort and to make Oregon’s program succeed.

Sincerely,



Kristan S. Mitchell  
Executive Director and CEO

Attachments: see 4. above

C: ORRA Steering Committee  
ORRA Board of Directors  
ORRA RAC Workgroup

Page Numbering Note:

ORRA's edits and comments begin on page 127 and go to page 166, which are the amendments to existing rule. They continue beginning on page 170 and go to page 209, which is all new rule language.

Due to ORRA's suggested changes, the page numbers do not correspond to the page numbers within the proposed draft rule as offered by DEQ.

This is noted within ORRA's Table of Contents, included as an attachment to ORRA comments.

## ORRA Table of Contents

DEQ May 25, 2023 Notice of Proposed Rulemaking  
Plastic Pollution and Recycling Modernization Act, Rulemaking 1

<b>Notice of Proposed Rulemaking</b>		Page
Introduction through Alternate Formats		1-31
<b>Draft Rules- Edits Highlighted*</b>		32-125
<b>Draft Rules- Edits Incorporated</b>		126-172 (See Renumbered Sections Below)
Section	Title	Page
0005	Purpose	126
0010	Definitions	126
0015	Scope and Applicability	131
0020	Opportunity to Recycle (OTR)	132
0030	General Requirements	132
0040	Local Government (LG) Recycling Program Elements	136
0042	Waste Prevention and Reuse Programs	147
0080	Alternative Methods for Providing the OTR	156
0090	Collection of Recyclable Materials	159
0110	Minimum Content Reporting Requirements	160
0140	Recyclable Material Economic Test	163
0190	Yard Debris Recycling Charges	163
0380	Recycling Rate Calculation for Rigid Plastic Containers	165
0410	Responsibilities of a Container Manufacturer	169
0430	Violations	172
<b>New Rule</b>		Page
		170-209 (See Renumbered Sections Below)
0600	Purpose and Applicability	170
0610	Definitions	170
0620	Effective Date	170
0630	Recycling Acceptance Lists	170
0640	Convenience Standards	175
0650	Performance Standards	181
0660	Collection Targets	184
0670	Responsible End Markets	185
0680	PRO Coordination	191
0690	PRO Fees	196
0700	Market Share	197
0710	Proprietary and Confidential Information	198
0720	Program Calendar	200
0730	PROs with less than 10 percent market share	200
0740	Reporting for plastic goal	200
0750	Program plan amendments and PRO fees	201
0760	PRO membership fees	201
0770	LG Transportation Cost Reimbursement	201
0780	Method for Determining Payment of Transportation Cost	204
0790	Expansion of Service	204
0800	Expansion of Service Funding and Needs Assessment	206
0810	LG Compensation and Invoicing	208

\*note ORRA did not make changes to this section and it is not included in our submittal

## Explanation of ORRA Amendments in Draft Rule

Rules are intended to assist in implementing statute, by giving more detail than exists in statute in order to meet the goals of the law. This generally means statute is not merely re-stated verbatim. Where there are verbatim statutory restatements in this rule draft, ORRA has attempted to leave them in place, and then add more language to provide the context and detail designed to help implement the law.

Changes and comments are noted at the page (p.) and line (l.) they begin. Recommended changes are in “track changes.” If there is a comment only, it is highlighted.

Page/Line	Explanation
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p.127 l. 2	Added specific statutory citation for tenants as collection service customers.
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p.130 l.30	Good clarification of the definition for source separate.
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p.133 l.20	typo – extra “5”
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p.134 l.20-21	ORS 459A.005(1)(a)(B) allows for an alternative method to meet the requirements of the Opportunity to Recycle pursuant to EQC rules, which are stated at OAR 340-090-0080. ORRA’s language, as added to this draft, maintains that statutory consistency.
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p.134, l.26-28 It is very important to plan for container access at multifamily properties, because there is limited space and conflicting goals (parking for residents v. needed space for containers, for example). The planning must be done in advance of construction or significant remodel, and ORRA’s language clarifies that.

p.134, l.32-33 It should be the responsibility of the property owner to provide appropriate access for all residents, and using existing models like the ADA to figure out how to meet this need allows for uniformity, and also some flexibility. ORRA has continuing concerns about safety issues for children in particular – making sure they are not at risk in being near containers, ensuring they are not climbing on them or viewing them as a play structure. ORRA’s language addresses those concerns.

p.138 l.21-22 DEQ deleted yard debris in the proposed rules (see p.45, l.20 of the “Edits Highlighted” draft). Please explain the numerous changes related to yard debris, specifically here but also throughout the proposed rule. Are they all intended as housekeeping? ORRA does not recall discussion of yard debris topics during the RAC meetings.

p.141, l.19-27 This section is related to materials collected at depots pursuant to the Opportunity to Recycle (OTR). ORRA believes this confirms that Local Governments (LGs) can continue to collect glass at depots but are not required to do so because glass is not on the LG Acceptance List. If LGs choose to do so, the PROs will help pay for it, pursuant to RAC discussions, unless the PROs are offering a similarly convenient glass collection option.

p.164,l.35 to p.165,l.2 There is a reference to yard debris in 340-090-0030, and ORRA does not see yard debris noted in -0030. Please advise where this is and what the effect of this amendment is.

p.165 1.12 Added “for Rigid Plastic Containers” to the title of the section for readability.

p.165, 1.32 to p.166, 1.3 Are these types of resins all parts of rigid plastic containers that are covered products? PVC, for example, has characteristics that are not desirable in recycling programs, so how do these resins fit into this calculation?. Also, at p.166, 1.1, the list ends with “other” and does not continue.

p. 170 following are ORRA’s suggestions/comments for Definitions in -0630

p. 170, 1.28 remove “thin”

1.30 add “or jug” since jugs are the same shape as bottles

1.31 remove “tubs” and replace with “jugs.”

p.171, 1.14 why are refillable containers excluded from pressurized cylinders? At a certain point, the law no longer allows those containers to be refilled, and at that point, a recycler would treat them the same as the other cylinders that are accepted, following the same protocols for safe recovery. Is there a way to rephrase this exemption to make that point?

1.24 how will anyone know if a material contains at least 50% metal and where did this concept originate?

1.25 clarifies “that previously contained refrigerants” in order to emphasize that they will not be accepted unless already removed

p.172, 1.1-2 added more clarification to exclude other contaminants that do not pulp

1.3-4 added additional exclusion for flexible packaging in boxes

1.5 exclusion for refrigerated items, but what about egg cartons, for example? This shows the level of complexity and difficulty in educating customers about what is, and what is not, recyclable.

p.173, 1.1 limit buckets, pails, etc., to five gallons or less. DEQ has previously stated that LGs could make this decision about size of buckets and then PROs could pick up items excluded by size in the PRO list. ORRA believes for clarity and less confusion overall, buckets larger than five gallons should be excluded statewide from the LG list.

1. 16 what is “other scrap metal”?

p.174, 1.9 to p.175, 1.11 ORRA has amended these sections that relate to the LG Acceptance list materials collected pursuant to the Opportunity to Recycle (OTR) and the Uniform Statewide Collection List (USCL), to reflect a trial or research approach for some specific materials in the metro-region only. For further explanation, please refer to page 4 of ORRA’s Comments Introductory Letter relating to Trial or Research and SIMs, as well as all previous ORRA comments submitted during the RAC meetings (dated February 1, March 24, and April 18).

p.174, 1.17 Added ORS 459A.005(1)(a)(B), which allows for alternative compliance in accordance with EQC rules, specifically OAR 340-090-0080. If (B) is added back as suggested, it makes sense in the next sentence to limit “recycling collection” as defined at 459A.863(25) to (a) through (c); if (B) is not added back, then the depot option of 459A.863(25)(d) should be added.

p.176, 1.27 Change the “does not exceed” from 110 percent to 115 percent. Neither ORRA nor DEQ found an existing comparison for this price premium from other programs, however ORRA offers the following reasons for 115 percent, including the following: Existing sites are already zoned and permitted for this use; trained staff is already available to safely handle the added materials; the sites have proper equipment and maintenance standards in place; the sites follow state and local solid waste management rules; the sites offer other collection services, which allows customers to combine trips and have the convenience of one-stop shopping.

p.177, 1.28-30 ORRA language clarifies that information submitted to determine “where possible” would be held as confidential under both statute and rule.

p.179, 1.28-30 Please explain how the calculation is made to determine that 95% of Oregonians will be within 15 mile of a recycling collection for these materials, and how that language was derived.

p.181, 1.4-6 There needs to be a reverse of this language - what happens if a covered product is removed from the USCL? This is a resiliency issue, with on ramps and off ramps for how materials are collected.

p.182, 1.12-23 What happens if the material is contaminated and requires disposal? Are there increased consequences for PROs, such as required staffing? Do LGs have the ability to shut down contaminated sites under their existing nuisance authority, or is there some other LG remedy otherwise listed in these rules?

p.186, 1.3-28 Please refer to ORRA’s comments on page 5 of ORRA’s Comments Introductory Letter relating to Responsible End Markets for the explanation of these changes.

p.186, 1.23-26 ORRA offers a definition of recycled feedstock to be used to define Responsible End Markets. Please refer to ORRA’s comments beginning on page 5 of ORRA’s Comments Introductory Letter for more detail.

p.198, 1.34 to p.199, 1.34 ORRA amends this section to include Confidential Information, which in many cases is not protected from disclosure by Proprietary Information and state law-defined trade secrets.

p.199, 1.21-23 ORRA deletes (d) because this information is proprietary and possibly even a trade secret for companies such as CPRFs. Markets can be unique, and if this information were disclosed to competitors, that market could be lost by the disclosing entity because of the competitive nature of the business. The information is important to understand, but it must be protected.

p.206, 1.21 delete “and”

p.208, 1.12 delete bullet

p.209, 1.17-19 ORRA adds this language to clarify if overpayments must be returned in 60 days, correspondingly, invoices will be paid in 60 days.



State of Oregon Department of Environmental Quality

# Notice of Proposed Rulemaking

May 25, 2023

Plastic Pollution and Recycling Modernization Act, Rulemaking 1

This package contains the following documents:

- Notice of Rulemaking
- Draft Rules: Edits Highlighted
- Draft Rules: Edits Included (final clean version)

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# Table of Contents

Introduction..... 1

Request for Other Options..... 1

Overview ..... 1

Procedural Summary..... 2

Statement of need ..... 4

Rules affected, authorities, supporting documents..... 7

Documents relied on for rulemaking ..... 8

Fee Analysis..... 1

Statement of Fiscal and Economic Impact ..... 4

Housing cost..... 19

Racial Equity..... 21

Advisory committee review of racial equity impact ..... 22

Federal relationship ..... 24

Land use..... 25

EQC Prior Involvement..... 26

Advisory Committee ..... 27

Public Engagement ..... 29

Public Hearing ..... 30

Alternate formats ..... 31

Draft Rules – Edits Highlighted..... **Error! Bookmark not defined.**

Draft Rules – Edits Incorporated..... **Error! Bookmark not defined.**

# Introduction

DEQ invites public input on proposed new and permanent rule amendments to chapter 340 of the Oregon Administrative Rules. Parameters and requirements for the proposed rules specific to the Plastic Pollution and Recycling Modernization Act are set forth in Senate Bill 582, enacted by the 2021 Oregon Legislature. DEQ proposes changes to OAR 340, division 90 to align the newly adopted RMA rules with the existing Opportunity to Recycle program.

## Request for Other Options

During the public comment period, DEQ asks for public comment on whether there are other options for achieving the rules' substantive goals while reducing the rules' negative economic impact on business.

## Overview

### Short summary

DEQ is undertaking the first of two rulemakings to clarify and implement the Plastic Pollution and Recycling Modernization Act (SB 582, 2021), also referred to as the RMA. The Act requires producers of packaging, paper products and food serviceware to support and expand recycling services in Oregon for their products.

The purpose of the proposed rules is to:

- Define and clarify Producer Responsibility Organization obligations, including meeting responsible end market criteria, program plan timelines, the annual administration fee, market share and PRO coordination if multiple PROs operate in the state.
- Clarify opportunities and requirements for local governments and their service providers to be eligible for funding and reimbursement for recycling service expansion and transportation costs.
- Establish Oregon's first statewide recycling materials list and identifying materials for the Local Government Recycling Acceptance List and the PRO Recycling Acceptance List.
- Define convenience standards, collection targets and performance standards for PRO recycling services.

The proposed rules are informed by discussions and input provided by DEQ's RMA rulemaking advisory committee, which included members from the regulated community, non-profit and community-based organizations, other interested parties and the public.

### Affected parties

The following parties are directly affected by the proposed rules:

- Local governments

- Collection service providers
- Producers of packaging, printing and writing paper, and food serviceware that become waste in Oregon
- Producer Responsibility Organization(s), a nonprofit organization established to administer a producer responsibility program. For this rulemaking, the producer responsibility program will be implemented statewide for the responsible management of covered products.

### **Indirectly affected parties**

The following parties are indirectly affected by the proposed rules:

- Customers/residents who recycle in Oregon
- Commingled recycling processing facilities
- End markets and the people who live in the communities where end markets are located

### **Outreach efforts and public and stakeholder involvement**

DEQ convened meetings with the public, local government and industry representatives through technical working groups, small-group discussions, and the rulemaking advisory committee meetings to encourage involvement and the contribution of input throughout the rulemaking process.

## **Procedural Summary**

### **More information**

Information about this rulemaking can be found on the [Recycling Updates 2023](#) web page.

### **Public Hearings**

DEQ plans to hold two public hearing(s) that anyone can attend by Zoom, an online video conference platform with toll-free telephone access for audio-only connections.

#### **Hearing 1:**

Date: June 27, 2023

Start time: 11 a.m. PT

Please [Register via Zoom](#) prior to the meeting.

#### **Hearing 2:**

Date: June 29, 2023

Start time: 5 p.m. PT

Please [Register via Zoom](#) prior to the meeting.

After registering, you will receive a confirmation email with instructions on how to join the meeting. If you are unable to register online using the link above, please contact Roxann Nayar for information on how to register and attend the hearing.

Email: [Roxy.Nayar@deq.oregon.gov](mailto:Roxy.Nayar@deq.oregon.gov)  
Phone: 503-593-3306

## How to comment on this rulemaking proposal

DEQ is asking for public comment on the proposed rules. Anyone can submit comments and questions about this rulemaking. A person can submit comments by email, regular mail or at the public hearing.

- Email: Send comments by email to [recycling.2023@deq.oregon.gov](mailto:recycling.2023@deq.oregon.gov)
- Post mail: Oregon DEQ, Attn: Roxann Nayar/Materials Management, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232-4100
- At the public hearings: 11 a.m., Tuesday, June 27, or 5 p.m., Thursday, June 29, 2023.

## Comment deadline

DEQ will only consider comments on the proposed rules that DEQ receives by **4 p.m. Pacific Daylight Time, on July 6, 2023.**

## Note for public university students:

ORS 192.345(29) allows Oregon public university and OHSU students to protect their university email addresses from disclosure under Oregon's public records law. If you are an Oregon public university or OHSU student, notify DEQ that you wish to keep your email address confidential.

## Sign up for rulemaking notices

Get email or text updates about this rulemaking by either:

- Signing up through this link: [GovDelivery](#);
- Signing up on the rulemaking web site: [Recycling 2023](#)

## What will happen next?

DEQ will include a written response to comments in a staff report that DEQ will submit to the Environmental Quality Commission. DEQ may modify the rule proposal based on the comments.

Proposed rules only become effective if the Environmental Quality Commission adopts them. DEQ's intended action is to present the proposed rule changes to the EQC as soon as possible after the earliest date on which the rule changes could take effect. DEQ intends to submit the proposed rule to the EQC on or before Oct. 12, 2023.

# Statement of need

Proposed Rule or Topic	Discussion
<b>Local Government Compensation</b>	
<p>What need would the proposed rule address?</p>	<p>The proposed rules address local government need for financial support for recycling services. The proposed rules related to the local government compensation topics clarifies when and how PROs will provide funding or reimbursements to local governments or their collection service provides for:</p> <ul style="list-style-type: none"> <li>• Transportation costs</li> <li>• New or expanded on-route collection start-up costs</li> <li>• New or expanded depot collection start-up and operational costs</li> <li>• Contamination reduction programming</li> </ul>
<p>How would the proposed rule address the need?</p>	<p>For transportation costs, the rules clarify that the transportation of covered recyclable products needing to travel 50 miles or more from a recycling depot or recycling reload facility to a commingled recycling facility or responsible end market are eligible for funding or reimbursement upon request.</p> <p>For recycling services expansion, the rules clarify the eligible expenses for the local governments who indicated interest in service expansion through the voluntary completion of the 2023 needs assessment survey. These expenses include:</p> <ul style="list-style-type: none"> <li>• Expenses for new or expanded on-route start-up costs, including: <ul style="list-style-type: none"> <li>○ Collection trucks</li> <li>○ Containers or roll carts</li> <li>○ Monitoring equipment</li> <li>○ New program promotional literature</li> <li>○ Staff safety equipment</li> <li>○ Recycling reload facility if none other is available or existing facilities are inadequate.</li> </ul> </li> <li>• Eligible expenses for new or expanded depot collection programs start-up and operational costs including but not limited to: <ul style="list-style-type: none"> <li>○ Land acquisition</li> <li>○ Containers</li> </ul> </li> </ul>

Proposed Rule or Topic	Discussion
	<ul style="list-style-type: none"> <li>○ Signage</li> <li>○ On-site monitoring equipment</li> <li>○ Equipment to move, compact, bale, and load recyclables for shipment</li> <li>○ Site preparation or other start-up costs</li> <li>○ Hiring and training staff, staff safety equipment</li> </ul> <p>For contamination reduction programming, the rules describe the reimbursement procedures and specify the source of census data that must be used to calculate the annual per capita funding a local government, the local government’s service provider or other person authorized by the local government has authorized, to receive.</p>
How will DEQ know the rule addressed the need?	The proposed rules in OAR chapter 340, division 90, establish the criteria for local governments or their collection service providers to receive funding from PROs to fund recycling collection services. Information provided through the annual reporting requirements and the periodic requirements for PRO(s) to update their operating program plans will allow DEQ to track and review funding disbursement to local governments and/or their service providers over time.
<b>Producer Responsibility Organization Obligations</b>	
What need would the proposed rule address?	<p>The proposed rules address the need to clarify PRO obligations. The rules clarify a variety of elements related to how PROs will establish and operate in Oregon. This includes:</p> <ul style="list-style-type: none"> <li>● establishing the initial and annual review fees paid to DEQ,</li> <li>● establishing methods for determining market share and coordination if there are multiple PRO(s),</li> <li>● clarifying the schedule for program plan updates and amendments,</li> <li>● defining responsible end markets and how PRO(s) will ensure compliance with these standards.</li> </ul>
How would the proposed rule address the need?	These proposed rules address a need to clarify statutory language involving producer responsibility obligations and requirements for implementing the Act. The rules require that the PRO(s) implement and meet the responsible end market standards, pay administrative fees to DEQ, and coordinate with other PRO(s) when needed. Additionally, the rules address the need for ensuring confidentiality of specific proprietary

<b>Proposed Rule or Topic</b>	<b>Discussion</b>
	information, and provides methods for calculating market share and for estimating covered products.
How will DEQ know the rule addressed the need?	PRO(s) will report annually on actions to implement an approved program plan(s) and related outcomes. This will provide DEQ the information required to know if the rules are addressing the need.
<b>Recycling Acceptance Lists</b>	
What need would the proposed rule address?	The proposed rule addresses the need for standardization of recycling services in Oregon, including the types of materials collected, and level of collection service across the state regardless of location.
How would the proposed rule address the need?	The Act describes several different lists and types of materials. These include “covered products,” “specifically identified materials,” and multiple lists of materials designated as suitable for recycling and for which PRO(s) or local governments must collect for recycling. The rules define each list and clarify standards regarding collection targets, performance standards and convenience standards.
How will DEQ know the rule addressed the need?	The PRO(s) will have to report to DEQ how they are meeting the specific performance and convenience standards. DEQ Regional Specialist staff who will perform compliance inspections.

# Rules affected, authorities, supporting documents

## Lead division

Materials Management Program

## Program or activity

Plastic Pollution and Recycling Modernization Act

## Chapter 340 action

### OAR chapter 340, division 90

<b>Adopt</b>				
340-090-0610	340-090-0660	340-090-0710	340-090-0760	340-090-0810
340-090-0620	340-090-0670	340-090-0720	340-090-0770	340-090-0600
340-090-0630	340-090-0680	340-090-0730	340-090-0780	
340-090-0640	340-090-0690	340-090-0740	340-090-0790	
340-090-0650	340-090-0700	340-090-0750	340-090-0800	
<b>Amend</b>				
340-090-0005	340-090-0030	340-090-0090	340-090-0380	
340-090-0010	340-090-0040	340-090-0110	340-090-0410	
340-090-0015	340-090-0042	340-090-0140	340-090-0430	
340-090-0020	340-090-0080	340-090-0190		
<b>Repeal</b>				
340-090-0041				
340-090-0070				

<b>Statutory Authority - ORS</b>				
459A.975				

<b>Statutes Implemented - ORS</b>				
459A.860- 459.975				

## Legislation

Senate Bill 582 (2021)



## Documents relied on for rulemaking

Document title	Document location
Overview of Scenario Modeling (Economic Assessment)	<a href="#">DEQ website</a>
Association of Plastics Recyclers – Plastics Recycling Glossary	<a href="#">Plastics Recycling Glossary</a>
DEQ – Materials Definitions for Phase 1 of Infrastructure research conducted for Recycling Steering Committee	<a href="#">DEQ website</a>
Portland State University, Population Research Center – Population Estimate Reports	<a href="#">PSU Population Research Center</a>
Supplemental Information: Selected Responses to DEQ’s Recycling Acceptance Lists Request for Information	<a href="#">DEQ website</a>
Comparative Life Cycle Assessment of Glass Collection and Recycling	<a href="#">DEQ website</a>
Comparative Life Cycle Assessment of Expanded Polystyrene Dispositions	<a href="#">DEQ website</a>
Comparative Life Cycle Assessment of Aseptic Packaging/ Cartons	<a href="#">DEQ website</a>
Supplemental Information: Recyclability of Paper Cans	<a href="#">DEQ website</a>

# Fee Analysis

These proposed rules would establish new fees, as directed by legislation.

## Brief description of proposed fees

The Plastic Pollution and Recycling Modernization Act (Senate Bill 582, 2021) requires certain producers<sup>1</sup> of packaging, food serviceware and printing and writing paper to join a Producer Responsibility Organization, which is a nonprofit membership organization that will administer this producer responsibility program. The PRO will propose to DEQ and then implement an approved program plan that describes how this will be achieved, including how the PRO(s) will satisfy a wide variety of financial and operational obligations that are contained in statute.

DEQ is required to establish a one-time plan review fee and an annual fee calculated to cover DEQ's administrative costs specific to many elements of the Act. These fees are not paid by businesses directly, rather they will be paid by the PRO(s). The PRO(s) in turn will recover these and other expenses by assessing membership fees to producers of covered products.

The program plan and annual fees will pay for DEQ's review of the PRO(s) program plan and DEQ's annual expenses for administering, implementing, and enforcing provisions of the Act as described in ORS 459A.938(1)(b).

## Reasons

The proposed fees would address policy changes and fees established by statute. The Act outlines the obligations of PRO(s) and establishing the proposed fees will allow DEQ to implement the Act as directed by Oregon Legislature.

## Fee proposal alternatives considered

DEQ did not consider alternatives. The proposed fee model was established in legislation and DEQ is proposing to implement the model as directed.

## Fee payers

Only Producer Responsibility Organizations would pay these fees to DEQ.

## Affected party involvement in fee-setting process

The proposed fee model, including types of fees and overall structure, was established through collaborative discussions with relevant parties during the legislative development of Senate Bill 582. No PROs for printed paper, packaging, and food serviceware exist within

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<sup>1</sup> For the purposes of this rulemaking "producers" are largely businesses as defined in ORS 459A.866. Importantly, they are not always the manufacturer of packaging, food serviceware, or printing and writing paper (also referred to as "covered products") but are more often the business users of such products that purchase them from the manufacturer and then sell them in Oregon.

Oregon at this time; however, DEQ’s prior consultations with PRO(s) from other jurisdictions informed the development of these proposed fees.

## Summary of impacts

The proposed fees would be paid by the PRO(s), as established in legislation. The PRO(s) in turn will recover their expenses using membership fees paid by entities defined in the Act (producers) that produce certain types of products for sale in Oregon.

The proposed fees would support DEQ’s administration of the Act, specifically:

- Review of program plan and program plan amendment submissions from prospective and existing PRO(s) per ORS 459A.875 and 459A.878 (the program plan review fee); and
- Ongoing administration, implementation, and enforcement of provisions ORS 459A.860 to 459A.975, but excluding ORS 459A.955, 459A.956 and 459A.959 (the annual administration fee). Also excluded is the implementation of ORS 459A.941, whereby DEQ will establish a new program to reduce the environmental impacts of covered products through means other than recycling. That program will be established through a separate fee as required by ORS 459A.941(4). That new fee will be established in a subsequent rulemaking.

The proposed fees are critical to DEQ being able to successfully implement the Act, as directed by the Oregon Legislature, and to modernize Oregon’s recycling systems.

## Fee payer agreement with fee proposal

No PRO(s) for producers of packaged items, paper products and food serviceware are currently established in Oregon, so DEQ was not able to solicit direct feedback from these entities as part of the rulemaking process. Representatives of two PRO(s) active in Canada did review these rules through their participation on the RAC. DEQ does expect to receive feedback from entities that may organize to operate as PRO(s) in Oregon before this rulemaking process is complete.

## Links to supporting documents for proposed fees

Plastic Pollution and Recycling Modernization Act (Senate Bill 582, 2021)	<a href="#">Oregon Legislature website, SB 582</a>
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## Fee Amount Details

The proposed fee amounts are as follows:

- Program plan review fee: a \$150,000 fee paid by a PRO when submitting an initial or renewal program plan program plan. If there are multiple PROs, each will pay the fee. Due to a statutory 10 percent market share minimum for PROs, DEQ expects 1-

3 PROs will initially operate in the system, although it could theoretically contain up to ten PROs.

- Annual administration fee: up to \$4,000,000 per year paid for the first four program years (2025-2028) and up to \$3,000,000 paid per year thereafter (2029 onward).<sup>2</sup> If there are multiple PROs, the fee will be divided among the PROs in proportion to the market share held by each producer participating in each PRO. DEQ may adjust the fee downward each year to reflect actual operating costs.

## **Fee schedule**

The proposed fees include a one-time plan review fee for each PRO(s) established in Oregon and an annual fee for continued improvement and ongoing implementation of recycling modernization programs and activities at DEQ. The plan review fee will become effective in 2024 when prospective PRO(s) submit their plans for a March 31, 2024, deadline. The annual fee will be paid for the first time in 2025 when approved PRO(s) begin their programs beginning July 1, 2025.

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<sup>2</sup> The first four annual fees are higher than the later annual fees because they encompass reimbursement of DEQ's start-up costs incurred in 2021-2025.

# Statement of Fiscal and Economic Impact

## Overview

This proposed rulemaking will clarify and implement portions of the Act, passed in 2021 by the Oregon Legislature. The Act requires producers of covered products to support and expand recycling services for their products in Oregon and requires local governments and the facilities that process commingled (mixed) recyclables to adhere to several new requirements.

These proposed rules are specific to topics, including PRO program plan content, DEQ administrative fees, funding and reimbursement for local governments related to select eligible recycling-related expenses and creating a materials acceptance list for materials eligible for collection in Oregon, as well as collection targets, convenience standards and performance standards for recycling of certain materials by PRO(s). The Materials Management Program will begin a second rulemaking beginning mid-2023 to implement additional elements of the Act, building on the foundational structures created by this rulemaking.

The proposed rules and rule revisions included in the rulemaking are based on discussions and input provided by DEQ's Rulemaking Advisory Committee, which included representatives from waste collectors and commingled recycling processing facilities, local governments, non-profit organizations, waste generators, PRO(s) and producers of covered products.

## Fiscal and Economic Impacts Overview

The proposed rules support the actions directed by the Oregon Legislature in the Act. The proposed local government compensation, materials acceptance lists and PRO obligation rules establish and implement recycling programs and regulatory structures that provide more uniform and equitable access to recycling opportunities for communities across the state.

The proposed rules would address specific barriers to access, such as high transportation costs for rural and remote communities and non-standardization of materials accepted by on-route recycling collection services and drop-off-style depots. Additionally, these rules would clarify how PRO(s) will distribute funding to local governments and their service providers<sup>3</sup> across the state for the expansion of recycling collection service.

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<sup>3</sup> For the purposes of this rulemaking, a local government's service provider is defined in the Act as:

- (a) A collection service franchise holder under ORS 459A.085;
- (b) Any person authorized by a city or county to provide recycling collection services described in subsection (25)(a) to (d) of this section; or
- (c) Any person authorized by a metropolitan service district to provide recycling collection services described in subsection (25)(d) of this section.

This expansion of services, accompanied by culturally specific outreach and education materials, would provide equitable access to recycling service for all communities across Oregon.

**I. Fiscal Impacts of Local Government Compensation Rules:**

A portion of the membership fees collected by the PRO(s) from the producers of covered products would be directed to local governments and their respective service providers. DEQ anticipates several positive impacts related to the requirements in ORS 459A.890 and the proposed rules relevant to this section.

Local governments will be eligible for compensation from the PRO(s) to pay for:

- Specific costs associated with on-route collection.
- Specific startup and operational costs at recycling collection depots.
- The costs for transporting collected materials from a recycling depot or recycling reload facility to a commingled recycling processing facility or a responsible end market that is 50 miles or further away.
- Contamination reduction efforts up to \$3 per year per capita. While statute dictates the amount payable to local governments, the proposed rules clarify which census data must be referenced and clarifies the administrative procedures for reimbursement.

**II. Fiscal Impacts of Recycling Acceptance Lists Rules:**

Proposed rules related to material acceptance lists will require local governments, their service providers, and commingled recycling processing facilities, to collect and process higher volumes and a more complex mix of recyclable materials than is currently the case outside of the Portland metro tri-county region. These higher volumes will increase the costs of collecting and processing recyclables. However, cost increases will be partially offset by reductions in garbage collection and disposal costs in some communities, and some costs will shift from local governments and processing facilities to PRO(s).

Separately, other proposed rules related to material acceptance lists will impose additional fiscal impacts on the PRO(s) for the provision of convenient recycling services for materials that are not currently collected. These proposed rules will benefit Oregon households and businesses, which will realize additional opportunities to recycle and reduced waste management expenses in some communities.

Finally, increased recycling would reduce the pollution associated with virgin resource extraction and manufacturing, which in turn would reduce a wide variety of societal costs such as those associated with climate change, air and water pollution, habitat disruption, and depletion of non-renewable resources.

**III. Fiscal Impacts of Producer Responsibility Organization Obligations Rules:**

The proposed rules governing PRO obligations would primarily impact and impose costs upon the PRO(s) themselves, with costs passed on to their member producers

through membership fees. The rules requiring PROs to meet convenience and performance standards for recycling of certain items, along with rules requiring that waste collected for recycling is sent to responsible end markets are likely the most financially impactful to the PRO(s) among the proposed rules.<sup>4</sup> Anticipated costs from the responsible end market rules include auditing recycling supply chains and the cost of implementing any improvements identified through the auditing process.

Through the proposed rules, PRO(s) must also pay administrative costs for DEQ's implementation of the Act, including the cost of interim coordination among multiple PRO(s) if DEQ approves multiple PRO plans. The rules impose costs on the PRO(s) who will recoup the expenses by charging the producers a membership fee. Related PRO obligation rule(s) will provide several benefits, including:

- Responsible End Markets:
  - increased public confidence that materials collected for recycling are recycled
  - maximum environmental benefits and reduced environmental and public harm risk from recycling activities
- Market Share and Modified Market Share: fair allocation of costs among PRO(s) and producers
- Fees and PRO Coordination: effective administration of the Act by DEQ

## **Statement of Cost of Compliance**

### **State agencies**

DEQ does not anticipate that other state agencies will incur costs or benefits different than those described under the public section, below.

### **Local governments**

The Act provides funding opportunities for all communities, regardless of size, and has some new requirements for cities with populations over 4,000 and other regulated local governments.

DEQ anticipates that Local Governments may incur compliance costs related to:

- Recordkeeping and invoicing PROs for compensation
- Ongoing operational costs of expanded recycling service that are not eligible for reimbursement
- Collecting the materials on the Local Government Recycling Acceptance List

Due to variability between local government operations, DEQ is not able to quantify the specific costs of compliance. Most local governments recover oversight and administration

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<sup>4</sup> Rules requiring PROs to compensate local governments and their service providers will also impose significant financial impacts on the PRO(s). However, those requirements are already largely established in statute, whereas the materials on the PRO Recycling Acceptance List, convenience and performance standards for the recycling of such materials, and responsible end market requirements are discretionary and more subject to EQC approval.

expenses via the application of a franchise fee, which often manifests as a percentage-of-revenue or percentage-of-expenditure surcharge on franchised services.

## **A. Local Government Compensation Rules**

### **I. Transportation Costs Reimbursement**

Local governments and service providers will work with the PRO(s) directly to determine the method to be used for calculating transportation costs. Local governments may incur some costs associated with recordkeeping and invoicing for compensation.

### **II. Recycling Services Expansion**

DEQ anticipates that this proposed rule will result in additional reporting and recordkeeping requirements for those local governments that choose to voluntarily request reimbursement for costs associated with recycling service expansion. These costs will most likely be related to the opportunities for local governments to participate in periodic needs assessment surveys, administered by DEQ or a contractor to DEQ, determining exact needs and negotiating compensation details with the PRO(s), and documenting recycling costs and procedures to request reimbursement from PRO(s). In most cases, any ongoing operational costs that are not eligible for reimbursement by the PRO will likely be recovered through user fees (e.g., garbage bills) as opposed to being an expense to the local government itself.

### **III. Contamination Reduction Programming**

DEQ anticipates some fiscal impact created by the proposed rules due to associated recordkeeping costs. Local governments will be responsible for documenting costs and establishing reimbursement procedures with the PRO(s).

## **B. PRO Obligation Rules**

DEQ does not anticipate that local governments will incur costs from the rules on PRO obligations. Local governments will benefit from the responsible end market obligation by having increased confidence that the materials accepted for recycling in their communities are being recycled responsibly. Such transparency in turn will increase the public's confidence in the recycling system. It is difficult to quantify these benefits in direct financial terms.

## **C. Recycling Acceptance List**

DEQ anticipates that there may be compliance costs for local governments or their service providers for costs associated with collecting the materials on the Local Government Recycling Acceptance List. In most cases, the costs incurred by local governments themselves will be relatively low, because most recycling services are paid for by ratepayers (system users), and not local government funds. The fiscal impacts of the proposed Recycling Acceptance List rules can be categorized by costs associated with on-route collection, at disposal sites or depots, general operational costs, and administrative compliance costs.



## **Producer Responsibility Organizations**

As defined in ORS 459A.863, a Producer Responsibility Organization is a nonprofit organization established to administer a producer responsibility program. PROs will have the highest costs of compliance relative to all other parties.

It is important to distinguish between the cost of compliance with statute, and the cost of compliance with the proposed following rules:

### **A. Local Government Compensation Rules**

DEQ proposes three rules associated with local government compensation, transportation costs reimbursement, recycling service expansion and contamination reduction programming. Currently DEQ is unable to quantify the fiscal impacts of these rules.

#### **I. Transportation Costs Reimbursement**

The PRO(s) are required to pay for eligible transportation costs established in statute and most of these are not related to this proposed rule.

The proposed rules establish that transportation costs also include administrative costs including, but are not limited to, costs related to staffing and the hiring and managing of staff. The proposed rules shift these costs from local governments and service providers to the PRO(s). DEQ anticipates that administrative costs will be low relative to the magnitude of the transportation costs themselves.

#### **II. Recycling Service Expansion**

DEQ anticipates that this proposed rule will result in additional reporting and recordkeeping requirements for those local governments that choose to voluntarily request reimbursement for costs associated with recycling service expansion. The Act requires that the PRO(s) pay for specific costs related to expanding and providing recycling collection services for covered products, per ORS 459A.890(5)(a). This includes both on-route collection and recycling depot service.

#### **III. Contamination Reduction Programming**

The rules related to contamination reduction programming require local governments will be responsible for documenting costs and establishing reimbursement procedures with the PRO(s).

### **B. Recycling Acceptance List Rules**

DEQ's estimate of the compliance costs to the PRO compare the costs of DEQ's rule concept against a set of hypothesized alternatives, as opposed to the costs of Oregon's current recycling system. This is because continuation of the current system is not a viable alternative under the Act. The Act requires the use of a uniform statewide collection list and the provision of programming such as contamination reduction efforts and processing of mixed recyclables at permitted facilities. The discretion available to the Environmental Quality Commission as part of this rulemaking is limited to what materials are on that uniform list and how are they collected. An evaluation of option comparisons and associated

costs, and an estimate of the costs of Oregon’s current recycling system is provided in the Cascadia Consulting Group’s 2023 report titled, “Overview of Scenario Modeling: Oregon Plastic Pollution and Recycling Modernization Act.”

The proposed rules for materials acceptance lists establish the contents and complexity of the acceptance lists. These proposed rules implement only a portion of the Act but may result in financial impacts to the PRO(s) if existing recycling services need to expand to accommodate materials added to the list. Expanding services will create new and increased costs related to:

- Collection and processing of materials on the Local Government Recycling Acceptance List.
- “Responsible end market” disposition requirements for materials on the Uniform Statewide Collection List.
- Recycling materials and achieving collection targets, convenience standards and performance standards for covered products on the PRO Recycling Acceptance List, and requirements to send such materials to “responsible end markets”.

### **I. Local Government Recycling Acceptance List: Costs associated with the collection and processing of materials on the Uniform Statewide Collection List**

DEQ is not able to fully quantify the specific fiscal impacts of these proposed rules. Fiscal impacts to the PRO(s) associated with collection and processing costs for materials on the Uniform Statewide Collection List are limited to the following:

- Reimbursement to local governments and their service providers under ORS 459A.890(5) for expansion of collection service *only to the extent that such expansion is a consequence of a more expansive commingled list than what is currently collected*. In some cases, expansion will be for other reasons, and so will not be a fiscal impact of the Local Government Recycling Acceptance List rule.
- Reimbursement to local governments and their service providers under ORS 459A.890(2) for transportation of collected materials to distant processing facilities or end markets *only to the extent that such transport costs increase due to a more expansive Local Government Recycling Acceptance List*. These impacts are estimated at about \$0.3 million annually.
- Reimbursement to commingled processing facilities under ORS 459A.920 and .923 *only to the extent that costs (net of revenue) increase due to a more expansive Uniform Statewide Collection List*. DEQ is unable to estimate the extent of the impacts because of the Act’s integrated components and the concurrent changes (e.g., new permitting requirements for commingled recycling processing facilities) and system efficiencies that will occur.

### **II. Impacts associated with responsible end market disposition requirements for materials on the Uniform Statewide Collection List**

Materials included in the Uniform Statewide Collection List, which includes most of the materials proposed for inclusion on the Local Government Recycling Acceptance List, prompts additional requirements on the PRO(s), to ensure that such materials:

1. Are sent to responsible end markets,

2. Are managed according to the hierarchy of materials management options in ORS 459A.015 and
3. Are managed in an environmentally protective way through to final disposition.

These requirements may impose compliance costs on the PRO(s) because there is a joint obligation for PRO(s) and commingled recycling processing facilities to ensure that materials reach responsible end markets. Currently DEQ does not have sufficient information to estimate associated compliance costs with these requirements.

### **III. PRO Recycling Acceptance List: Impacts associated with the recycling of materials and the achievement of collection targets, convenience standards and performance standards for covered products**

This proposed rule requires the PRO(s) to provide for recycling of materials on the PRO Recycling Acceptance List, and to meet collection targets, convenience standards and performance standards for such recycling. All materials on the PRO Recycling Acceptance List and all targets and standards are the subject of this rulemaking. DEQ is unable to quantify all the fiscal impacts of these rules on the PROs due to several unknown variables, including:

- The expenses PRO(s) will incur because the Act (ORS 459A.896(1)(a)) includes a requirement that PRO(s) first contract with existing depots “where possible”. DEQ cannot guarantee how many existing depots will choose to, and successfully contract with, a PRO(s). DEQ has instead applied professional judgment to estimate how many such facilities might take this opportunity. If DEQ’s estimate is incorrect, costs may be higher or lower than shown here.
- Compliance costs because it is unknown how the PRO(s) itself will respond to this mandate. The Act provides PRO(s) significant flexibility in how a PRO may achieve convenience standards.

DEQ estimates that major costs to PROs of the proposed rules for PRO Recycling Acceptance Lists, including collection targets, convenience standards, and performance standards may be on the order of \$20 to \$22 million annually (in 2021 dollars with capital costs amortized). These include:

- Approximately \$19 to \$21 million annually to provide recycling service for ten different materials at approximately two hundred different locations across the state. If PRO(s) can optimize collection points more efficiently than modeled, their compliance costs may be lower. If the number of existing depots that choose to opt into this system is higher than estimated, the PRO(s)’ compliance costs may be higher.
- Approximately \$1 million annually to cover increased operational costs at commingled recycling processing facilities.

Additionally, PRO(s) or their contractors will benefit from approximately \$1 million/year in commodity revenues, and other users of the system will benefit from approximately \$1 million per year due to reduced garbage collection, transfer and disposal costs.

### **C. PRO Obligations Rules**

DEQ anticipates that PRO(s) will incur costs to comply with the rules governing their obligations. Costs associated with the two PRO fees are described above. Costs to PROs associated with other PRO obligation rules are as follows:

- Responsible End Markets
- PRO Coordination
- Market Share and Modified Market Share

#### **I. Responsible End Markets:**

PRO(s) must ensure that materials collected for recycling are sent to responsible end markets and are managed in an environmentally protective way through final disposition.

DEQ is currently unable to estimate to potential cost of compliance with these provisions for these materials. To implement this obligation, PRO(s) will incur costs for auditing and/or certifying recycling supply chains. If out of compliance, PRO(s) may incur costs to come into compliance by implementing solutions, such as the development of alternative markets. DEQ cannot provide an estimate the costs associated with implementing solutions until after July 1, 2025. This is when data on existing recycling supply chains for Oregon's recyclables will be submitted to DEQ.

#### **II. PRO Coordination:**

The proposed rules clarify the coordination requirements if multiple PRO(s) submit program plans to DEQ and receive approval. DEQ proposes to serve as interim coordinator until a PRO coordination plan has been approved or until December 31, 2026, whichever comes sooner. The PRO(s) would pay DEQ's associated costs, approximately \$1.1 million from April 2024 through to December 2026.

#### **III. Market Share and Modified Market Share:**

Proposed rules include a formula termed "modified market share" to fairly divide system costs among multiple PRO(s). The potential fiscal impacts for PRO(s) will be proportional to the product-specific financial burden to Oregon's recycling system of the products sold into the state by their member producers.

PROs will be responsible to cover DEQ's costs to develop an index of material-specific financial burden factors to be used in calculating modified market share in the first year of the program.

## Public

The proposed rules establish no compliance obligations directly on the public. However, impacts of the rule will result in some indirect fiscal impacts, both negative and positive.

As discussed previously, many of the costs associated with the proposed rules are largely set in the Act. Any fiscal impacts of proposed rules on PRO(s) will be paid by producer members. One potential negative impact on the public depends on whether and how producers pass on additional costs to consumers in Oregon. This has been difficult to estimate. Economic theory predicts that a portion of producer costs will be passed on to consumers in the form of higher shelf prices, although producers that sell into multiple states may recover these costs across customers in multiple states, thereby reducing price impacts on the public in Oregon. A DEQ-commissioned study comparing shelf prices for the same items sold by the same retailers in Canadian provinces with vs. without packaging PROs and producer fees found minimal correlation between product-specific fees (paid by producers) and differences in retail shelf prices.

Another negative impact on the public involves their cost to deliver materials on the PRO Recycling Acceptance List to collection points. Some of these collection points will be co-located with existing solid waste and recycling facilities, while others will be sited in other locations to provide enhanced convenience (and reduce additional driving requirements). DEQ estimates that Oregon households and businesses may incur approximately \$6 to 9 million annually due to added personal vehicle use associated with delivering recyclables to PRO collection points. This estimate is limited to costs of vehicle ownership and operations, and excludes the value of user time. Importantly, such personal vehicle use is voluntary; the rules do not require households or other waste generators to take advantage of and participate in these recycling opportunities.

Anticipated positive impacts for the public from the rules include:

- The improvements to Oregon's recycling system will transfer certain expenses from collection and processing companies currently paid by the ratepayers to the PRO(s). All other things being equal, and in some communities, this should reduce the rates charged to ratepayers, such as households and businesses.<sup>5</sup>
- Oregon households and businesses will also have new opportunities to further reduce expenses for disposing of garbage or paying for a subscription or similar recycling service. For example, households and others currently transporting materials such as expanded polystyrene to distant collection points would benefit from a more convenient network of collection sites.
- Compensation for long distance (50 miles or more) transportation costs may benefit recycling programs and system users in rural and other areas that are far

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<sup>5</sup> It should be noted that in some communities, such as those that make significant expansions or changes to on-route recycling services, rates paid by ratepayers may rise as a result of the Act. In addition, waste collection rates reflect a number of factors which these rules do not effect, such as the price of diesel and the cost of disposal. For that reason, rates charged to users in various Oregon communities may go up or down for reasons largely unrelated to the Act.

from end markets and processing infrastructure. These rules may transfer certain expenses currently paid by ratepayers.

- More and improved recycling will reduce environmental impacts, a central objective of the Act. DEQ estimated the potential changes in environmental outcomes for thirteen different types of impacts, such as emissions of greenhouse gases and air toxics. For each of these outcomes, impacts are then converted to estimates of “social costs”. DEQ estimates that transitioning from the current recycling system to the system contained in the Act, and further clarified in these rules, could reduce social costs by approximately \$29 million annually (net of additional environmental impacts, such as emissions from vehicles used to collect and transport recyclables). This likely understates the full magnitude of benefits, as DEQ’s social cost assessment is limited to only 13 types of environmental impacts. Not included, for example, is one of the more profound impacts of these rules (and the Act), which is to reduce Oregon’s contribution of plastics waste into the oceans, rivers, and disadvantaged communities that may currently result from inadequate separation, processing and exports.
- Implementation of the Act will reduce such societal costs, but not all of those benefits have been quantified. Similarly, the stability offered to collection programs and waste generators associated with uniform, statewide acceptance lists, and the emotional benefits that individuals realize from increased confidence that the materials they separate for recycling will be managed in responsible ways, offer the potential for additional economic benefits that DEQ has not attempted to quantify.

### **Anticipated Business Impacts**

The impacts of these rules are anticipated to be proportionately similar for most businesses regardless of their size. The Act itself provides exemptions for small businesses, although the definition of “small business” in the Act differs from the definition used for this document. The proposed rules do not address those exemptions. DEQ estimates that there are 11 commingled recycling processing facilities operating in the state, but currently does not have the information to distinguish how many fall under the “large” or “small” category.

### **Large businesses: Businesses with more than 50 employees**

Based on membership data provided by the Oregon Refuse and Recycling Association on March 6, 2023, DEQ can provide an estimate of the service providers that would be considered a large business for the purposes of this section and are anticipated to be impacted by the proposed rules. The estimates of cost of compliance by the proposed rules to large businesses apply to the following industry sectors: producers of covered products, processors of materials, and waste service providers.

<b>Large Business/ Sector Type</b>	<b>Business Count</b>
Service Providers	8
Commingled recycling processing facilities	This information is currently unavailable.
Producers of covered products	This information is currently unavailable

### **A. Local Government Compensation Rules**

DEQ proposes three rules associated with local government compensation, transportation costs reimbursement, recycling service expansion and contamination reduction programming. These rules are anticipated to have both fiscal impacts to large businesses.

#### **I. Transportation Costs Reimbursement**

At this time, DEQ is unable to determine the total cost associated with the transportation cost reimbursement rule to large businesses.

The proposed transportation costs reimbursement rules are anticipated to have positive fiscal impacts on “large” service providers operating within Oregon. Transportation costs paid by PRO(s) will provide these companies operating a recycling depot and/or a recycling reload facility compensation for transportation when they must transport recyclable materials 50 miles or more to reach a commingled recycling processing facility or a responsible end market. This ensures that it will not be cost prohibitive for a collection company to move low-value material(s) to market.

Commingled recycling processing facilities or, processors, who are considered large businesses should not be directly impacted by the transportation cost reimbursement. The provision of freight reimbursement should make it more viable for distant communities to collect materials for recycling. This should increase the tonnage of material ultimately directed to commingled recycling processing facilities, and the financial opportunity associated with processing and marketing such materials.

DEQ anticipates indirect fiscal impacts of the transportation costs reimbursement rules on large businesses that meet the Act’s definition of a producer. The Act requires that producers pay fees for the total amount of eligible covered product(s) they sell, offer to sell or distribute in or into Oregon to the PRO(s). Expenses incurred by the PRO(s) will be compensated by the PRO’s members, but DEQ is unable to provide an estimate of those membership fees at this time.

#### **II. Recycling Service Expansion**

At this time, DEQ is unable to determine the total fiscal impacts to large businesses associated with service expansion because these costs will be informed by a Needs Assessment survey currently in progress.

The proposed recycling service expansion rules are anticipated to have positive fiscal impacts for service providers. The PRO(s) will be responsible for certain costs associated with the expansion and provision of recycling collection services, including for on-route and at depots. For on-route expansion, ongoing labor costs are not an eligible expense and may impose fiscal impacts. However, for depot expansion, ongoing operational costs, such as labor, will be eligible for funding from the PRO(s).

It is anticipated that commingled recycling processing facilities will experience a positive fiscal impact from the proposed service expansion rules because newly established or expanded on-route and depot collection programs, statewide, will lead to an increased volume of material being brought to commingled recycling processing facilities. This will result in more material for commingled recycling processing facilities to handle, market and profit from.

### **III. Contamination Reduction Programming**

As discussed previously the proposed rules clarify which census data must be referenced and clarifies the administrative procedures for reimbursement. DEQ does not anticipate fiscal impacts to large businesses related to these rules.

#### **B. Recycling Acceptance Lists Rules**

The proposed materials acceptance list rules will create fiscal impacts on waste and recycling collection companies. Costs associated with collecting materials on the proposed Uniform Statewide Collection List are expected to be several million dollars higher each year than collection costs would be for a less comprehensive list. At the same time, as materials shift from the garbage stream into the commingled collection system, garbage collection, transfer and disposal costs are expected to decrease.

The materials acceptance list rules are anticipated to have fiscal impacts on commingled recycling processing facilities. DEQ expects that new facilities may be built, and existing facilities will be required to invest in upgrades, new equipment and implement new procedures to process the materials proposed for inclusion in the Uniform Statewide Collection List. The higher costs associated with processing larger volumes and a more complicated list should be compensated by fees paid by the PRO(s) to processing facilities under ORS 459A.920 (Contamination Management Fee) and 459A.923 (Processor Commodity Risk Fee). In some cases, higher costs associated with equipment will be offset by savings as mechanization replaces manual labor.

The proposed rules will have fiscal impacts on businesses that are classified as “producers” of covered products. The PRO(s) will charge membership fees to their producer members based on the quantities of different materials they sell into Oregon and the costs that each material imposes upon the PRO(s). The membership fee schedule will be established by the PRO(s) and DEQ is unable to estimate the impact of proposed rules on the producer membership fees. (Please see “PRO Obligations Rules” below for additional discussion of these impacts.)

#### **C. PRO Obligations Rules**

The proposed rules related to the PRO obligations are anticipated to have indirect fiscal impacts on large businesses that are producers of covered products and do not qualify for a small producer exemption. The producers of covered products will be required to join and pay membership fees to PRO(s) that will establish the membership fee schedule and administer a producer responsibility program.



The proposed rules require that the PRO(s) structure its fee schedule to cover its costs, and in a multi-PRO scenario, the PRO's overall costs will be proportional to its modified market share, the formula being proposed in rule.

The PRO(s) will be establishing the membership fees and at this time, DEQ has not estimated the projected costs to individual producers.

**Small businesses: Businesses with 50 or fewer employees**

The impacts of the proposed rules on small businesses will be similar to large businesses as discussed above, although the impacts should be proportionately smaller. Additionally, the Act provides for an exemption for small producers from the requirement to join and pay fees to a PRO(s). The exemption applies to producers that sell less than one metric ton of covered product into Oregon each year, or which have global revenues of \$5 million or less.

**ORS 183.336 Cost of Compliance Effect on Small Businesses**

**a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.**

<b>Small business/sector type</b>	<b>Count of Small Businesses</b>
Service Providers	40
Commingled Recycling Processing facilities	This information is not currently available.
Producers of covered products	This information is not currently available.

The types of industries subject to the requirements of these proposed rules include service providers, processing facilities, and producers of covered products, as those terms are defined in ORS 459A.863 and 459A.866. DEQ has not performed a market analysis to estimate the number of businesses, small or large, who meet these defined criteria as part of this proposed rulemaking. Of the small business sectors that will be impacted by proposed rules, the producers of covered products will be obligated to pay a membership fee to the PRO(s).

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

The costs incurred by small businesses that are producers of covered products will be based on the fees and processes established by the PRO(s), not DEQ. DEQ does anticipate some costs associated with the labor and administration of providing PRO-requested information, to be incurred by small businesses. Such requirements are not the subject of this rulemaking.

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

The costs incurred by small businesses will be based on the fees and processes established by the PRO(s), not DEQ. DEQ does anticipate some costs associated with the labor and administration of providing PRO-requested information, to be incurred by small businesses.

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

The RAC convened for this rulemaking included representatives of small businesses and membership organizations. The proposed rules are based on legislation that included significant engagement with potentially affected parties, including small businesses.

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

Document title	Document location
Plastic Pollution and Recycling Modernization Act (Senate Bill 582, 2021)	<a href="#">Oregon Legislature website, SB 582</a>
Overview of Scenario Modeling: Oregon Plastic Pollution and Recycling Modernization Act (Cascadia Consulting Group, Mar. 14 2023)	<a href="#">DEQ Recycling website</a>
Memo: Impact of Extended Producer Responsibility Fees for Packaging and Printing Paper on Price of Consumer Packaged Goods (RRS, Feb. 19 2021)	<a href="#">DEQ Recycling website</a>
Supplemental Information: Selected Responses to DEQ’s Recycling Acceptance Lists Request for Information	<a href="#">DEQ Recycling website</a>
Supplemental Information: Recyclability of Paper Cans	<a href="#">DEQ Recycling System Advisory Council website</a>
Materials Lists Technical Workgroup: Comparative Life Cycle Assessment of Expanded Polystyrene Dispositions	<a href="#">DEQ website</a>
Materials Lists Technical Workgroup: Comparative Life Cycle Assessment of Glass Collection and Recycling	<a href="#">DEQ website</a>

## **Advisory committee fiscal review**

DEQ appointed an advisory committee for this rulemaking process. The advisory committee met on April 11, 2023, to discuss the fiscal impact statement.

As ORS 183.33 requires, 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 adverse impact on small businesses; if so, then how DEQ can comply with ORS 183.540 reduce that impact.

Advisory committee members were asked to review and provide comment on a draft fiscal impact statement. The current draft has been revised in response to some of the comments received. Overall, committee members did not find that there would be significant impact on small businesses in Oregon but that the analysis could go further in examining impacts to the informal sector, depots, consumers, and rate payers. A summary of their comments can be found in the April 11, 2023, written meetings notes from the sixth RAC meeting, available on the Recycling 2023 [rulemaking webpage](#). The comments included:

- DEQ should provide the reference documents' page numbers in the citations.
- DEQ should consider the potential for job loss.
- Acknowledgement that it is difficult for policy makers to fully understand the full economic impacts of such an undertaking.
- Processors and small business will be impacted, however, they have been included throughout this process. An advantage for some small businesses is that they will be well positioned to adapt.
- Anticipation that there may be fewer jobs but the jobs that remain will be more specialized and will pay higher wages.
- The analysis did not consider potential changes for rate payers, and the statement should be more nuanced to reflect the differences across communities, where some may experience rate increases while others may not.
- The analysis should consider the impacts to consumers.
- The potential for automation does not necessarily need to eliminate jobs, and more work could be done to sustain current employment regardless of automation.
- Impacts on depots should be addressed more directly in this analysis.

### **Enter specifics about the committee's fiscal impact review.**

The committee determined the proposed rules would not have a significant adverse impact on small businesses in Oregon. During the RAC meeting held on April 11, 2023, the committee was asked to consider the following questions:

- Is there a fiscal impact for certain entities, and if so, what is the extent of those impacts?
- Is there a significant impact on small businesses, and how can they be mitigated?

Overall, the committee did not object to the fiscal impacts of the proposed rules. Relatedly, there was some discussion and questions about DEQ's evaluation process and other impacts that the act will have on job loss, depots, impacts to costs to consumers and on collection rates. One Committee member asked how DEQ assessed potential job loss in the evaluation of fiscal impacts and stated that the anticipated changes to the recycling system make it too complex to be able to fully calculate.

Another Committee member confirmed that there will be impacts on small processors, but stated that for small processors, being able to adapt and change will be easier for them compared to larger facilities.

The gaps in understanding the impacts to the future costs of consumers and job loss through automation was also discussed. Impacts to depots who are unable to register or enter meet the criteria to be considered eligible was another concern expressed by a committee member. DEQ was asked to consider having more flexible registration deadlines to allow depots who may not otherwise qualify to participate in the new system.

Another committee member disagreed with DEQ's statement that there could be a decrease in service collection rates. The shift of materials from those that were collected as trash to recycling, that do not provide revenue, will impact some areas and may result in rate increases.

## **Housing cost**

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would influence the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel.

DEQ determined the proposed rules would have minimal impacts on these development or construction activities. The proposed rules and related fees would be paid largely by PRO(s), which would be funded through membership fees paid by the producers of specific types of products sold in Oregon. Producers of packaged products, including construction materials, may recover their membership fee expenses by passing those costs on to customers, such as wholesalers, retailers or homebuilders. In theory, this could result in higher retail prices for packaged goods such as plumbing and lighting fixtures. Evidence for these types of price impacts is anecdotal, inconsistent, and not well documented. Further, the price of packaging contributes relatively little to the cost of home construction and even less to the development costs of land. It is further unlikely that those producers or the PRO(s) would modify business operations or take other actions that would have other effects on housing costs or activities. Finally, any such cost increases might be offset by cost reductions associated with the expanded availability of no-fee recycling opportunities, as well as potential reductions in garbage/recycling fees as discussed previously.

DEQ determined the proposed rules would have no effect on the development costs because the price of packaging contributes relatively little to the cost of home construction and even less to the development costs of land. It is further unlikely that those producers or the PRO(s) would modify business operations or take other actions that would have other effects on housing costs or activities.

# Racial Equity

ORS 183.335(2)(a)(F) requires state agencies to provide a statement identifying how adoption of this rule will affect racial equity in Oregon.

The scope of this racial equity impact statement is for the proposed rules developed for the first rulemaking of the Plastic Pollution and Recycling Modernization Act. This is the first of two planned rulemakings, and the proposed rules would change Oregon's recycling requirements to meet the directives and objectives of the Act (Senate Bill 582, 2021). Each change or new provision may have an individual impact while also having an overall, cumulative impact.

This state- and system-wide update will make recycling easier for the public to use, expand access to recycling services, result in upgrades to the facilities that sort recyclables, and create environmental benefits while reducing social and environmental harms, such as plastic pollution. This rulemaking addresses multiple topics including PRO obligations, local government compensation, and the materials acceptance lists. Within each topic, DEQ finds that there are likely positive racial equity impacts and does not anticipate any negative racial equity impacts.

## **I. Producer Responsibility Organization Obligations: Responsible End Markets**

The discrepancy between the quantity of materials generated and marketed to end markets, and the ability of those markets to deal with the materials in ways that do not harm public health or the environment, is an on-going issue within the recycling industry. DEQ's proposed rules regarding responsible end markets support the Act's objectives to benefit Oregon's environment and minimize risk to public health and worker safety. By requiring that materials collected for recycling in Oregon all go to responsible end markets, as defined in the law and further subject to criteria established by DEQ through this rulemaking, the proposed rules are designed to improve the environmental and social benefits of recycling.

These proposed rules could address negative impacts of recycling facilities upon adjacent communities, which are more likely to include communities of color due to systemically racialized zoning and land use practices. By requiring PRO(s) and commingled processing recycling facilities to send waste only to responsible end markets, as defined in the proposed rules, DEQ expects to achieve public health, social and environmental benefits for communities disproportionately burdened by the processing and disposition of recycled materials.

## **II. Local Government Compensation**

The proposed rules would create funding structures to improve recycling opportunities, particularly for communities and individuals across Oregon underserved by the current system. This includes tenants in multifamily buildings, and residents in exurban and rural communities and other areas that are located far from major recycling infrastructure, which

is primarily located in the Portland area. In Oregon, these groups make up 12.5 percent of low income and minority community members<sup>6</sup>, who are disproportionately non-white.

The funding structures established through the Act, and clarified in these proposed rules will benefit underserved communities by:

- Providing local governments or a local government's service provider(s) with funding to cover the capital costs associated with either establishing or expanding an on-route program for collection of recyclable materials (RMA covers the single-family, commercial and multifamily sectors), or covering start-up and operational costs associated with recycling depots.
- Reducing financial barriers for getting recyclables from distant areas to commingled recycling processing facilities or responsible end markets by providing financial support for the transportation of collected materials. This should significantly equalize recycling costs between different areas of the state.
- Creating standards and requirements for non-urban communities to provide recycling services to their residents, consistent with services available in urbanized portions of the state.

### **III. Recycling Acceptance Lists**

These proposed rules would improve equity of service for all communities across Oregon by requiring the acceptance of materials on a uniform statewide collection list, regardless of location or proximity to recycling facilities. The recommended convenience standards for materials on the PRO Recycling Acceptance List will further expand recycling communities in all counties of Oregon. Additional standards ensure that at least some collection points will be accessible to users of public transit, and that cities with multiple collection points must have those collection points distributed throughout the community. Performance standards will help to ensure that collection points are maintained and avoid litter or other hazards, regardless of neighborhood or location. The creation of uniform lists also allows for clear and consistent information and messaging to all people across Oregon, including the availability of information in languages other than English to ensure compliance with state and federal laws for meaningful and equitable access to government services. The intent is to distribute more standardized benefits, including improved access to recycling, and reduce disproportionate burdens across communities.

## **Advisory committee review of racial equity impact**

DEQ asked for the committee's input on how adoption of this rule would affect racial equity in this state.

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<sup>6</sup> Kaiser Family Foundation, 2021, Poverty by Race/Ethnicity:  
<https://www.kff.org/other/state-indicator/poverty-rate-by-raceethnicity/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>

The committee members were asked to review and provide comment on the draft racial equity statement and their comments are also summarized in the sixth RAC written meeting summary. The comments provided during the meeting included:

- DEQ was asked to consider impacts to economic opportunities for the informal collection sector.
- DEQ was asked to consider potential job loss at material recovery facilities for positions typically filled disproportionately by people of color.
- A question about whether the rules have unintentionally excluded tribal governments from being eligible for funding.
- A question about whether DEQ's process for conducting this analysis include any consultation with groups representing impacted BIPOC communities.
- The analysis did not include impacts to laborers and collectors from the informal sector.
- A question about whether the analysis should consider the limited availability of data and difficulty collecting data around multi-family recycling.
- A question about whether there was any analysis conducted on the potential cost to consumer goods and the impacts they may have.



## **Federal relationship**

ORS 183.332, 468A.327 and OAR 340-011-0029 require DEQ to attempt to adopt rules that correspond with existing equivalent federal laws and rules unless there are reasons not to do so.

The proposed rules are not different from or in addition to federal requirements.

## **What alternatives did DEQ consider if any?**

DEQ did not consider alternatives because this rulemaking is proposing new rules.

# 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, objects, or areas identified in the statewide planning goals, or
  - Present or future land uses identified in acknowledge comprehensive plans

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

<b>Goal</b>	<b>Title</b>
5	Natural Resources, Scenic and Historic Areas, and Open Spaces
6	Air, Water and Land Resources Quality
11	Public Facilities and Services
16	Estuarine Resources
19	Ocean Resources

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

## Determination

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

# EQC Prior Involvement

DEQ shared a general rulemaking update with the EQC as an information item at the September 2022 EQC meeting.

# Advisory Committee

## Background

DEQ convened the Plastic Pollution and Recycling Modernization Act rulemaking advisory committee. The committee included representatives from local governments, collection service providers, industry, and environmental groups and met six times. For more information, please visit the [committee's web page](#).

<b>Recycling Modernization Act Rulemaking Advisory Committee</b>	
<b>Name</b>	<b>Representing</b>
Trevor Beltz	Tillamook County Creamery Association
Udara Abeseykera Bickett (replaced by Mike Riley meeting 2 and Lindsay Hardy meeting 5)	The Environment Center
Tim Brownell (replaced Katy Nesbitt, Wallowa County)	Deschutes County
Rosalynn Greene	Metro
Sydney Harris (replaced by Scott Cassell meetings 4-6)	Product Stewardship Institute
Allen Langdon	Circular Materials
Michael McHenry (replaced by Stephen Henry meeting 2)	Pendleton Sanitary Service, Inc.
Kristan Mitchell	Oregon Refuse and Recycling Association
Jeff Murray	EFI Recycling Inc.
Deveron Musgrave	City of Eugene
Jerry Powell	Residents
Mallorie Roberts (replaced by Michael Burdick meetings 3-6)	Association of Oregon Counties
Jared Rothstein (replaced by Lauren Janes meetings 3-6)	Consumer Brands Association
John Salvador	Georgia-Pacific Professional
Craig Smith (replaced by Pam Barrow meetings 5 and 6)	Food Northwest
Paloma Sparks (replaced by Scott Bruun meetings 4-6)	Oregon Business and Industry
Taylor Cass Talbott	Trash for Peace
Nicole Willett (replaced by Maria Constantinou meetings 4 and 5)	Green for Life

## **Meeting notifications**

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

- Sent GovDelivery bulletins, a free e-mail subscription service, to the following lists:
  - Rulemaking
- Reminded all attendees at each rulemaking advisory committee meeting that they could sign-up for the GovDelivery bulletin to receive updates about the rulemaking.
- Posted information regularly on DEQ's recycling rulemaking webpage
- Added advisory committee announcements to DEQ's calendar of public meetings at [DEQ Calendar](#).

## **Committee discussions**

In addition to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee was asked to discuss and provide input on proposed rule concepts and the draft rules. Agendas, meeting materials, and meeting summaries are available on the rulemaking webpage.

# Public Engagement

## Public notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing by:

- On May 25, 2023 Filing notice with the Oregon Secretary of State for publication in the June 2023 Oregon Bulletin;
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at: [Recycling Updates 2023](#);
- Emailing approximately 23,906 interested parties on the following DEQ lists through GovDelivery:
  - Rulemaking
  - DEQ Public Notices
  - Recycling Modernization Act
- Emailing the following key legislators required under [ORS 183.335](#):
  - Senator Michael Dembrow, Chair, Senate Education Committee, Co-Chair, Joint Committee on Ways and Means Subcommittee on Natural Resources, Co-Chair, Environmental Caucus
  - Senator Janeen Sollman, Co-Chair, Joint Committee on Ways and Means Subcommittee on General Government
  - Senator Lynn P. Findley
  - Representative Pam Marsh
  - Representative Susan McLain
- Emailing advisory committee members,
- Posting on the DEQ event calendar: [DEQ Calendar](#)

## How to comment on this rulemaking proposal

DEQ is asking for public comment on the proposed rules. Anyone can submit comments and questions about this rulemaking. A person can submit comments through email, postal mail or verbally at the public hearing(s).

- Email: Send comments by email to [recycling.2023@deq.oregon.gov](mailto:recycling.2023@deq.oregon.gov)
- Postal mail: Oregon DEQ, Attn: Roxann Nayar/Materials Management, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232-4100
- At the public hearing(s): 11 a.m., Tuesday, June 27, 2023, or, 5 p.m., Thursday, June 29, 2023.

## Comment deadline

DEQ will only consider comments on the proposed rules that DEQ receives by 4 p.m. Pacific Time, on **July 6, 2023**.

## Note for public university students:

ORS 192.345(29) allows Oregon public university and OHSU students to protect their university email addresses from disclosure under Oregon's public records law. If you are an Oregon public university or OHSU student, notify DEQ that you wish to keep your email address confidential.

# Public Hearing

DEQ plans to hold two public hearings as part of this notice. The public hearings are online and by teleconference only. Anyone can attend a hearing by teleconference, held using Zoom, an online meeting platform. Toll-free telephone access will be available for audio-only connections.

**11 a.m., Tuesday, June 27, 2023:**

Please [Register via Zoom](#) prior to the meeting:

**5 p.m., Thursday, June 29, 2023:**

Please [Register via Zoom](#) prior to the meeting:

After registering, you will receive a confirmation email with instructions on how to join the meeting. If you are unable to register online using the link above, please contact Roxann Nayar for more information on how to register and attend the hearing.

Email: Roxy. [Nayar@deq.oregon.gov](mailto:Nayar@deq.oregon.gov)  
Phone: 503-593-3306

DEQ will consider all comments and testimony received before the closing date. DEQ will summarize all comments and respond to comments in the Environmental Quality Commission staff report. DEQ intends to present these proposed rules at the November 16-17, 2023 regular EQC meeting.

## Alternate formats

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us).

DEQ does not discriminate on the basis of race, color, national origin, disability, age or sex in administration of its programs or activities. Visit DEQ's [Civil Rights and Environmental Justice page](#).

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# Draft Rules – Edits Incorporated

Plastic Pollution and Recycling Modernization Act 2023

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## DIVISION 90 RECYCLING AND WASTE REDUCTION

### 6 **340-090-0005**

#### 7 **Purpose**

8 OAR 340-090-0005 to 0510 establish the minimum requirements for providing the  
9 opportunity to recycle. These rules also describe the standards for waste prevention, reuse,  
10 recovery, and recycling programs in Oregon. The rules are adopted under the authority of  
11 ORS 459.045, 459A.025 and 468.020. These rules relate to the requirements of ORS  
12 459.015, 459.250, 468.862 and Chapter 459A.

13 **Statutory/Other Authority:** ORS 459A.025, 459.045 & 468.020

14 **Statutes/Other Implemented:** ORS 459A.005, 459A.010, 459A.025 & 459A.575

#### 15 **History:**

16 DEQ 3-2017, f. & cert. ef. 1-19-17

17 DEQ 31-1992, f. & cert. ef. 12-18-92, Renumbered from 340-060-0005

18 DEQ 26-1984, f. & cert. ef. 12-26-84

### 19 **340-090-0010**

#### 20 **Definitions**

21 The definitions in this rule apply to OAR 340-090-0005 to 0510, and OAR Chapter 340  
22 Division 91. Unless otherwise specified:

23 (1) "Affected person" means a person or entity involved in the solid waste collection service  
24 process including but not limited to a recycling collection service, disposal site permittee or  
25 owner, city, county and metropolitan service district. For the purposes of these rules  
26 "affected person" also means a person involved in operation of a place to which persons not  
27 residing on or occupying the property may deliver source separated recyclable material.

28 (2) "Collection service" means a service that provides for collection of solid waste or  
29 recyclable material or both, but does not include that part of a business operated under a  
30 certificate issued under ORS 822.110. "Collection service" of recyclable materials does not  
31 include a place to which persons not residing on or occupying the property may deliver  
32 source separated recyclable material.

33 (3) "Collection service customers" includes: residential and commercial customers of a  
34 collection service as defined in ORS 459.005, and also, as of July 1, 2026, the multi-family

1 residential and commercial tenants of landlords or property managers that are customers of a  
2 collection service for the benefit of their tenants as defined in ORS 459A.005(3)(b).

3 (4) "Collector" means the person who provides collection service.

4 (5) "Commercial" means stores, offices including but not limited to manufacturing and  
5 industry offices, restaurants, warehouses, schools, colleges, universities, hospitals, prisons,  
6 and other institutions and non-manufacturing entities. "Commercial" does not include  
7 manufacturing activities or business, manufacturing, or processing activities in residential  
8 dwellings.

9 (6) "Composting" means the managed process of controlled biological decomposition of  
10 organic or mixed solid waste. It does not include composting for the purposes of soil  
11 remediation. Compost is the product resulting from the composting process. "Composting"  
12 includes both aerobic composting and anaerobic digestion.

13 (7) "Consumer of newsprint" means a person who uses newsprint in a commercial or  
14 government printing or publishing operation.

15 (8) "DEQ" means the Department of Environmental Quality.

16 (9) "Depot" means a place for receiving source separated recyclable material.

17 (10) "Director" means the Director of the Department of Environmental Quality.

18 (11) "Disposal site" means land and facilities used for the disposal, handling or transfer of or  
19 energy recovery, material recovery, and recycling from solid wastes, including but not  
20 limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for  
21 septic tank pumping or cesspool cleaning service, transfer stations, energy recovery  
22 facilities, incinerators for solid waste delivered by the public or by a collection service,  
23 composting plants and land and facilities previously used for solid waste disposal at a land  
24 disposal site ; but the term does not include a facility authorized by a permit issued under  
25 ORS 466.005 to 466.385 to store, treat or dispose of both a hazardous waste and solid waste;  
26 a facility subject to the permit requirements of ORS 468B.050; a site which is used by the  
27 owner or person in control of the premises to dispose of soil, rock, concrete or other similar  
28 nondecomposable material, unless the site is used by the public either directly or through a  
29 collection service; or a site operated by a wrecker issued a certificate under ORS 822.110.

30 (12) "Energy intensive materials" means metals, paper, plastic, and food, including products  
31 that are primarily made of metals, paper, or plastic, such as some furniture, small and large  
32 appliances, and consumer electronics.

33 (13) "Energy recovery" means recovery in which all or a part of the solid waste materials are  
34 processed to use the heat content, or other forms of energy, of or from the material.

35 (14) "EQC" means the Environmental Quality Commission.

- 1 (15) "Food rescue" means the practice of safely retrieving wholesome food still fit for  
2 human consumption that would otherwise be left unharvested or go to animal feed or a  
3 composting facility, anaerobic digestion facility, energy recovery facility, or other disposal  
4 site and redistributing that food through a food assistance program.
- 5 (16) "Food waste" means waste from fruits, vegetables, meats, dairy products, fish,  
6 shellfish, nuts, seeds, grains, and similar materials that results from the storage, preparation,  
7 cooking, handling, selling or serving of food for human consumption. "Food waste" includes  
8 but is not limited to excess, spoiled or unusable food and includes inedible parts commonly  
9 associated with food preparation such as pits, shells, bones, and peels. "Food waste" does  
10 not include dead animals not intended for human consumption or animal excrement.
- 11 (17) "Franchise" includes a franchise, certificate, contract or license issued by a local  
12 government unit authorizing a person to provide solid waste management services.
- 13 (18) "Generator" means a person who last uses a material and makes it available for disposal  
14 or recycling.
- 15 (19) "Glass container manufacturer" means a person that manufactures new glass containers  
16 in Oregon or that manufactures new glass containers outside Oregon sold by the  
17 manufacturer to packagers located in Oregon.
- 18 (20) "Industrial waste" means solid waste generated by manufacturing or industrial  
19 processes that is not a hazardous waste regulated under ORS Chapters 465 and 466. Such  
20 waste may include, but is not limited to, waste resulting from the following processes:  
21 Electric power generation; fertilizer/agricultural chemicals; food and related products/by-  
22 products; inorganic chemicals; iron and steel manufacturing; leather and leather products;  
23 nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins  
24 manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone,  
25 glass, clay and concrete products; textile manufacturing; transportation equipment; water  
26 treatment; and timber products manufacturing. This term does not include  
27 construction/demolition waste; or municipal solid waste from manufacturing or industrial  
28 facilities such as office or "lunch room" waste, or packaging material for products delivered  
29 to the generator.
- 30 (21) "Infrastructure support" means in-kind contributions in support of reuse, repair, leasing  
31 or sharing of efforts to reduce waste, such as: local government staff time; franchisee staff  
32 time; space at facilities owned, permitted, or franchised by a local government; space for  
33 meetings, storage, or display of materials; equipment; access to land; and access to vehicles.
- 34 (22) "Land disposal site" means a disposal site in which the method of disposing of solid  
35 waste is by landfill, dump, pit, pond, lagoon or land application.
- 36 (23) "Local government" means a political subdivision that regulates either solid waste  
37 collection, disposal, or both, including but not limited to incorporated cities, municipalities,  
38 townships, counties, parishes, regional associations of cities and counties, tribal reservations,  
39 and metropolitan service districts, but not including sewer districts, fire districts, or other  
40 political subdivisions that do not regulate solid waste.

- 1 (24) "Local government unit" means the territory of a political subdivision that regulates  
2 either solid waste collection, disposal, or both, including but not limited to incorporated  
3 cities, municipalities, townships, counties, parishes, regional associations of cities and  
4 counties, tribal reservations, and metropolitan service districts, but not including sewer  
5 districts, fire districts, or other political subdivisions that do not regulate solid waste. If a  
6 county regulates solid waste collection within unincorporated areas of the county but not  
7 within one or more incorporated cities or municipalities, then the county local government  
8 unit must be considered as only those areas where the county directly regulates solid waste  
9 collection.
- 10 (25) "Material recovery" means any process of obtaining from solid waste, by  
11 presegregation or otherwise, materials that still have useful physical or chemical properties  
12 and can be reused, recycled or composted for some purpose.
- 13 (26) "Metropolitan service district" means a district organized under ORS Chapter 268 and  
14 exercising solid waste authority granted to such district under ORS Chapters 268, 459, and  
15 459A.
- 16 (27) "Multi-family" means dwellings of five or more units.
- 17 (28) "Newsprint" means paper meeting the specifications for Standard Newsprint Paper and  
18 Roto Newsprint Paper as set forth in the 2023 HTSA Supplement edition of the Harmonized  
19 Tariff Schedule of the United States for such products. (See Figure 1.)
- 20 (29) "On-route collection" means pick up of source separated recyclable material from the  
21 generator at the place of generation.
- 22 (30) "On-site collection" has the same meaning as on-route collection.
- 23 (31) "Opportunity to recycle" means those activities described in OAR 340-090-0020, 340-  
24 090-0030, 340-090-0040, 340-090-0041, 340-090-0042, 340-090-0050 and 340-090-0080.
- 25 (32) "Permit" means a document issued by DEQ bearing the signature of the director or the  
26 director's authorized representative and that by its conditions may authorize the permittee to  
27 construct, install, modify, operate or close a disposal site in accordance with specified  
28 limitations.
- 29 (33) "Person" means the United States, the state or a public or private corporation, local  
30 government unit, public agency, individual, partnership, association, firm, trust, estate or  
31 other legal entity.
- 32 (34) "Post-consumer waste" means a finished material that would normally be disposed of as  
33 solid waste, having completed its life cycle as a consumer item. Post-consumer waste does  
34 not include manufacturing waste.
- 35 (35) "Recyclable material" means any material identified for recycling collection under ORS  
36 459A.914 or any other material or group of materials that can be collected and sold for

- 1 recycling at a net cost equal to or less than the cost of collection and disposal of the same  
2 material.
- 3 (36) "Recycled-content newsprint" means newsprint that includes post-consumer waste  
4 paper.
- 5 (37) "Recycling" means any process by which solid waste materials are transformed into  
6 new products in such a manner that the original products may lose their identity.
- 7 (38) "Residential" means single family dwellings and multi-family dwellings having four or  
8 fewer units.
- 9 (39) "Reuse" means the return of a commodity into the economic stream for use in the same  
10 kind of application as before without change in its identity.
- 11 (40) "Solid waste" means all useless or discarded putrescible and nonputrescible materials,  
12 including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage  
13 sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial,  
14 industrial, demolition and construction materials; discarded or abandoned vehicles or parts  
15 thereof; discarded home and industrial appliances; manure, vegetable or animal solid and  
16 semisolid materials, dead animals and infectious waste as defined in ORS 459.386. "Solid  
17 waste" does not include:
- 18 (a) Hazardous wastes as defined in ORS 466.005;
- 19 (b) Materials used for fertilizer, soil conditioning, humus restoration, or for other productive  
20 purposes or which are salvageable for these purposes and are used on land in agricultural  
21 operations and growing or harvesting crops and raising fowls or animals, provided the  
22 materials are used at or below agronomic application rates, or
- 23 (c) Woody biomass that is combusted as a fuel by a facility that has obtained a permit  
24 described in ORS 468A.040.
- 25 (41) "Solid waste management" means: preventing or reducing solid waste; managing the  
26 storage, collection, transportation, treatment, utilization, processing and final disposal of  
27 solid waste, recycling, reuse and material or energy recovery from solid waste; and facilities  
28 necessary or convenient to such activities.
- 29 (42) "Source separate" means that the person who last uses recyclable material separates the  
30 recyclable material from **other** solid waste.
- 31 (43) "Technical assistance" means assistance in support of reuse, repair, leasing or sharing  
32 provided to businesses or non-profit staff or programs, such as: program design and  
33 implementation; publicizing and promoting opportunities through channels such as  
34 directories of reuse and repair operations; research to support technical assistance efforts;  
35 and expending funds to hire specialists or contractors who provide information and advice in  
36 topics such as business planning, operations, facility design, market research, and marketing.

1 (44) "Toxic materials" means products or other materials that contain chemicals or groups of  
2 chemicals on DEQ's Toxics Focus List or that DEQ otherwise designates as "toxic."

3 (45) "Urbanized area" means, for jurisdictions within the State of Oregon, the territory  
4 within the urban growth boundary of each city of 4,000 or more population, or within the  
5 urban growth boundary established by a metropolitan service district. For jurisdictions  
6 outside the State of Oregon, "urbanized area" means a geographic area with substantially the  
7 same character, with respect to minimum population density and commercial and industrial  
8 density, as urbanized areas within the State of Oregon.

9 (46) "Waste prevention" means reducing the amount of solid waste generated or resources  
10 used, without increasing toxicity, in the design, manufacture, purchase or use of products or  
11 packaging. "Waste prevention" does not include reuse, recycling or composting.

12 (47) "Waste prevention campaign" means an organized effort intended to change one or  
13 more specific behaviors or practices that reduces the amount of solid waste generated or  
14 resource used without increasing toxicity in the design, manufacture, purchase, or use of  
15 products or packaging. A food rescue program is not a waste prevention campaign for the  
16 purpose of complying with sections OAR 340-090-0042(3) or (4).

17 (48) "Wasteshed" means the areas of the state of Oregon as defined in ORS 459.005 and  
18 listed in ORS 459A.010 and OAR 340-090-0050.

19 (49) "Yard debris" means vegetative and woody material generated from residential property  
20 or from commercial landscaping activities. This includes grass clippings, leaves, hedge  
21 trimmings and similar vegetative waste but does not include stumps or similar bulky wood  
22 materials.

23 [\[ED. NOTE: To view attachments referenced in rule text, click here to view rule.\]](#)

24 **Statutory/Other Authority:** ORS 459.045, 459A.100 - 459A.120 & 468.020

25 **Statutes/Other Implemented:** ORS 459A.005 & 459A

26 **History:**

27 [DEQ 48-2017, minor correction filed 12/14/2017, effective 12/14/2017](#)

28 DEQ 3-2017, f. & cert. ef. 1-19-17

29 DEQ 27-1998, f. & cert. ef. 11-13-98

30 DEQ 10-1994, f. & cert. ef. 5-4-94

31 DEQ 31-1992, f. & cert. ef. 12-18-92, Renumbered from 340-060-0010

32 DEQ 1-1989, f. & cert. ef. 1-27-89

33 DEQ 5-1988, f. & cert. ef. 2-2-88

34 DEQ 7-1987, f. & cert. ef. 3-18-87

35 DEQ 26-1984, f. & cert. ef. 12-26-84

36 **340-090-0015**

37 **Scope and Applicability**

38 (1) OAR 340-090-0005 to 0510 describes the requirements for waste reduction and  
39 recycling programs for residential and commercial solid wastes.

1 (2) The requirements in OAR 340-090-0005 to 0510 apply to local governments generally  
2 and where specified to landfill owners/operators, solid waste collection services, and other  
3 persons.

4 (3) OAR chapter 340, division 90 is adopted under the authorities in ORS Chapter 459 and  
5 459A and should be used in conjunction with the laws of the State of Oregon.

6 **Statutory/Other Authority:** ORS 459A.025, 459.045 & 468.020

7 **Statutes/Other Implemented:** ORS 459A.005, 459A.010, 459A.020, 459A.025, 459A.030,  
8 459A.035, 459A.040, 459A.050, 459A.055, 459A.060, 459A.065, 459A.070, 459A.075,  
9 459A.080, 459A.085, 459A.100, 459A.110, 459A.115 & 459A.120

10 **History:**

11 DEQ 3-2017, f. & cert. ef. 1-19-17

12 DEQ 31-1992, f. & cert. ef. 12-18-92 (and corrected 1-5-93)

13 **340-090-0020**

14 **Opportunity to Recycle**

15 The opportunity to recycle as set forth in ORS 459A.005, 459A.007, 459A.008 and  
16 459A.010, includes at a minimum the requirements described in OAR 340-090-0030, 340-  
17 090-0040, 340-090-0042, and 340-090-0050. The appropriate city, county, or metropolitan  
18 service district, may request approval of an alternative program for meeting the requirements  
19 of the opportunity to recycle under OAR 340-090-0080.

20 **Statutory/Other Authority:** ORS 459A.025, 459.045 & 468.020

21 **Statutes/Other Implemented:** ORS 459A.005

22 **History:**

23 DEQ 3-2017, f. & cert. ef. 1-19-17

24 DEQ 31-1992, f. & cert. ef. 12-18-92, Renumbered from 340-060-0020

25 DEQ 26-1984, f. & cert. ef. 12-26-84

26 **340-090-0030**

27 **General Requirements**

28 (1) The city, county, or metropolitan service district responsible for solid waste management  
29 must ensure that a place for collecting source separated recyclable materials identified in  
30 OAR 340-090-0630(4)(a) is located at each permitted disposal site or located at an  
31 alternative location in the jurisdiction that is more convenient to the population being served  
32 by the disposal site.

33 (2) Effective July 1, 2025 to January 1, 2027, a city, county or metropolitan service district,  
34 a local government's service provider or a commingled recycling reload facility may not  
35 deliver to a commingled recycling processing facility commingled recyclables that were  
36 collected pursuant to the uniform statewide collection list established under ORS 459A.914  
37 unless:

1 (a) At the time the city, county or metropolitan service district, the local government's  
2 service provider or the comingled recycling reload facility delivered or contracted to deliver  
3 or transport materials to the comingled recycling facility:

4 (A) the comingled recycling facility held a valid permit issued under ORS 459A.955; or

5 (B) For a comingled recycling facility located outside of this state:

6 (i) The facility held a valid certificate issued under ORS 459A.956; or

7 (ii) The facility certified that it otherwise met the requirements of ORS 459A.955 or  
8 459A.956, even though the facility did not hold a permit or certificate.

9 (b) Within six months after the DEQ completes a report under ORS 459A.932, the  
10 comingled recycling processing facility has taken steps to implement any  
11 recommendations of the report related to providing opportunities in the recycling industry  
12 for women and minority individuals as defined in ORS 200.005.

13 (3) Effective January 1, 2027, a city, county or metropolitan service district, a local  
14 government's service provider or a comingled recycling reload facility may not deliver to  
15 a comingled recycling processing facility comingled recyclables that were collected  
16 pursuant to the uniform statewide collection list established under ORS 459A.914 unless:

17 (a) At the time the city, county or metropolitan service district, a local government's service  
18 provider or the comingled recycling reload facility delivered or contracted to deliver or  
19 transport materials to the comingled recycling facility:

20 (A) the comingled recycling facility held a valid permit issued under ORS 459A.955; or

21 (B) For a comingled recycling facility located outside of this state:

22 (i) The facility held a valid certificate issued under ORS 459A.956; or

23 (ii) The facility certified that it otherwise met the requirements of ORS 459A.955 or  
24 459A.956, even though the facility did not hold a permit or certificate.

25 (b) The processor ensures the health, safety and wellness of workers at the facility regardless  
26 of whether the workers are employees, independent contractors or employees of another  
27 business.

28 (c) The processor provides workers at the facility with a living wage and supportive benefits,  
29 as defined by the rule by the Environmental Quality Commission.

30 (d) Within six months after the DEQ completes a report under ORS 459A.932, the  
31 comingled recycling processing facility has taken steps to implement the  
32 recommendations of the report related to providing opportunities in the recycling industry  
33 for women and minority individuals as defined in ORS 200.005.



1 (4) Effective January 1, 2026 a city, county, or metropolitan service district shall ensure that  
2 rolcars, bins and containers purchased by its service providers are manufactured from at  
3 least 10 percent post-consumer recycled material and are certified by an independent  
4 verification standard, such as the Postconsumer Resin Certification Program established by  
5 the Association of Plastics Recyclers.

6 (5) Effective July 1, 2025, except as provided by ORS 459A.914(6), a material may not be  
7 collected as part of a commingled recycling program unless the material is identified for  
8 collection as part of a commingled recycling program on the uniform statewide collection  
9 list.

10 (6) For purposes of sections (2) through (5) of this rule the terms “commingled recycling,”  
11 “commingled recycling processing facility,” “local government’s service provider,” and  
12 “recycling reload facility” have the meaning provided by ORS 459A.863.

13 (7) Each city that is within a metropolitan service district or with a population of at least  
14 4,000 and each county that is responsible for the area between city limits and the urban  
15 growth boundary of the city or the area outside the city limits but within a metropolitan  
16 service district shall:

17 (a) Provide on-route collection service for source separated recyclable materials identified in  
18 OAR 340-090-0630(4)(b) at least once a month for all collection service customers within  
19 the city limits and within the urban growth boundary or metropolitan service district but  
20 outside of the city limits-, or provide an alternative method that complies with OAR 340-  
21 090-0080.

22 (b) Effective July 1, 2026 for the recycling collection of materials identified on the uniform  
23 statewide collection list at multifamily properties:

24 (A) Ensure adequate space for collection.

25 (B) Demonstrate a plan to ensure adequate space and access for collection vehicles after new  
26 construction or significant remodels. The plan shall be submitted, reviewed, and approved  
27 by the city, county, or their designated local government service provider, before any new  
28 construction or significant remodeling occurs.

29 (C) Update or establish service standards for service providers to provide adequate service  
30 volume or collection frequency, or a combination of both.

31 (D) Ensure that container placement is accessible to residents, including children and  
32 individuals who use a wheelchair. To do this, property owners will use ADA or other  
33 existing access models to ensure safety, as well as accessibility, for all residents.

34 (E) Report on activities to meet the requirements of this subsection in the periodic report  
35 submitted according to the requirements of OAR 340-090-0100.

36 (c) To the extent that funding is provided under ORS 459A.890(4), establish and implement,  
37 or cause to be established and implemented, a program to reduce contamination that:

- 1 (A) Includes one or more local recycling contamination reduction goals that are consistent  
2 with the statewide goals established by the DEQ pursuant to ORS 495A.929(1)(a).
- 3 (B) Causes collected source separated recyclables to undergo periodic evaluation of  
4 collected material quality and contamination, in accordance with forms and procedures  
5 established by the Department of Environmental Quality under ORS 459A.959.
- 6 (C) Includes:
- 7 (i) At least one of each of the three types of contamination reduction program elements  
8 contained on the list established by the DEQ pursuant to ORS 459A.929(1)(c), or
- 9 (ii) Uses materials or methods that are at least as effective as materials or methods approved  
10 by DEQ pursuant to ORS 459A.929(1)(c).
- 11 (D) Includes, at least once every five years, a process for reviewing, and revising as  
12 appropriate, the local goals and local elements established under this subsection.
- 13 (8) The city or county responsible for solid waste management must carry out a public  
14 education and promotion program that meets the following minimum requirements:
- 15 (a) An initial written or more effective notice or combination of both that is reasonably  
16 designed to reach each residential and commercial generator of recyclable materials, and  
17 that clearly explains why people should recycle, the recycling opportunities available to the  
18 recipient, the materials that can be recycled and the proper preparation of those materials for  
19 recycling. The notice must include the following specific information:
- 20 (A) Reasons why people should recycle; and
- 21 (B) Name, address and telephone number of the person providing on-route collection where  
22 applicable; and
- 23 (C) Listing of depots for recyclable materials at all disposal sites serving the area and any  
24 alternative DEQ-approved more convenient locations, including the materials accepted and  
25 hours of operation; or
- 26 (D) Instead of paragraphs (B) and (C) of this subsection a telephone number and a website  
27 address to find information about depot locations and collection service as appropriate.
- 28 (b) Existing residential and commercial collection service customers must be provided  
29 information, at least semi-annually, through a written or more effective notice or  
30 combination of both, listing the materials collected, the schedule for collection, proper  
31 method of preparing materials for collection and an explanation of the reasons why source  
32 separation of materials for recycling is necessary;
- 33 (c) Written information to be distributed to disposal site users at all disposal sites or,  
34 alternatively, more convenient locations with attendants and where it is otherwise practical.  
35 The written information must include the following:

- 1 (A) Reasons why people should recycle; and
- 2 (B) List of materials that can be recycled; and
- 3 (C) Instruction for the proper preparation of recyclable materials.
- 4 (d) At sites without attendants, a sign indicating availability of recycling at the site or at the
- 5 more convenient location must be prominently displayed that indicates materials accepted
- 6 and hours of operation;
- 7 (e) Identify and establish a procedure for citizen involvement for the development and
- 8 implementation of an education and promotion program;
- 9 (f) Notification and education materials provided to local media and other groups that
- 10 maintain regular contact with commercial and residential generators and the public in
- 11 general, including local newspapers, trade publications, local television and radio stations,
- 12 community groups, and neighborhood associations;
- 13 (g) A person identified as the education and promotion representative for the appropriate
- 14 jurisdiction to be the official contact to work with the other affected persons in matters
- 15 relating to education and promotion for recycling.
- 16 (h) A local government that provides the opportunity to recycle or the local government's
- 17 service provider shall utilize and distribute educational resources developed under ORS
- 18 459A.893(1). A local government or the local government's service provider may
- 19 incorporate the educational resources developed under this section into an existing education
- 20 program developed to satisfy the requirements of ORS 459A.007 and 459A.008.

21 **Statutory/Other Authority:** ORS 459.045, 459A.100 - 459A.120 & 468.020  
 22 **Statutes/Other Implemented:** ORS 459A.005, 459A.007, 459A.010, 459A.896,  
 23 459A.905, 459A.908, 459A.911, 459A.914 & 459A.929.

24 **History:**  
 25 DEQ 10-2017, minor correction filed 10/27/2017, effective 10/27/2017  
 26 DEQ 3-2017, f. & cert. ef. 1-19-17  
 27 DEQ 10-1994, f. & cert. ef. 5-4-94  
 28 DEQ 31-1992, f. & cert. ef. 12-18-92, Renumbered from 340-060-0020 & 340-060-0040  
 29 DEQ 26-1984, f. & cert. ef. 12-26-84

30 **340-090-0040**  
 31 **Local Government Recycling Program Elements**

32 (1) In addition to the minimum requirements in OAR 340-090-0030 and 340-090-0042, each  
 33 city with a population of 4,000 or more and any county responsible for the area between the  
 34 city limits and the urban growth boundary of that city, or the area outside the city limits but  
 35 within a metropolitan service district, must implement recycling program elements from  
 36 section (3) of this rule based on the following requirements:

- 37 (a) For cities within a metropolitan service district:

- 1 (A) The three recycling program elements set forth under subsections (3)(a), (b) and (c) of  
2 this rule and at least four additional elements set forth under section (3) of this rule;
- 3 (B) At least eight recycling program elements set forth under section (3) of this rule; or
- 4 (C) An alternative program approved by DEQ that meets the requirements of OAR 340-090-  
5 0080.
- 6 (b) For cities with a population of at least 4,000 but not more than 10,000 that are located  
7 120 miles or less from the City of Portland:
- 8 (A) At least four recycling program elements set forth under section (3) of this rule; or
- 9 (B) An alternative program approved by DEQ that meets the requirements of OAR 340-090-  
10 0080.
- 11 (c) For cities with a population of at least 4,000 but not more than 10,000 that are more than  
12 120 miles from the City of Portland:
- 13 (A) At least three recycling program elements set forth under section (3) of this rule; or
- 14 (B) An alternative program approved by DEQ that meets the requirements of OAR 340-090-  
15 0080.
- 16 (d) For cities with a population of more than 10,000 but not more than 50,000 that are  
17 located 150 miles or less from the City of Portland:
- 18 (A) The three recycling program elements set forth under subsections (3)(a), (b) and (c) of  
19 this rule and at least two additional elements set forth under section (3) of this rule;
- 20 (B) At least six recycling program elements set forth under section (3) of this rule; or
- 21 (C) An alternative program approved by DEQ that meets the requirements of OAR 340-090-  
22 0080.
- 23 (e) For cities with a population of more than 10,000 that are located more than 150 miles  
24 from the City of Portland:
- 25 (A) The three recycling program elements set forth under subsections (3)(a), (b) and (c) of  
26 this rule and at least one additional element set forth under section (3) of this rule;
- 27 (B) At least five recycling program elements set forth under section (3) of this rule; or
- 28 (C) An alternative program approved by DEQ that meets the requirements of OAR 340-090-  
29 0080.
- 30 (f) For cities with a population of more than 50,000 that are located 150 miles or less from  
31 the City of Portland:

1 (A) The three recycling program elements set forth under subsections (3)(a), (b) and (c) of  
2 this rule and at least three additional recycling program elements set forth under section (3)  
3 of this rule;

4 (B) At least seven recycling program elements set forth under section (3) of this rule; or

5 (C) An alternative program approved by DEQ that meets the requirements of OAR 340-090-  
6 0080.

7 (g) A local government that is not subject to ORS 459.007(6) or (7) or OAR 340-090-0042  
8 may substitute for one recycling program element set forth under section (3) of this rule:

9 (A) The waste prevention and reuse program element set forth under OAR 340-090-0042(2);  
10 and

11 (B) At least two additional waste prevention and reuse program elements set forth under  
12 OAR 340-090-0042.

13 (2) For determining a city's distance in miles from the City of Portland under section (1) of  
14 this rule, DEQ must use the current mileage table or comparable current mileage statistics  
15 from the Oregon Department of Transportation.

16 (3) Program elements:

17 (a) Deliver to each residential collection service customer at least one durable recycling  
18 container. For purposes of this program element, a durable container must be a rigid box or  
19 bucket with a volume of at least 12 gallons made of material that holds up under all weather  
20 conditions for at least five years and that the resident and the collector can easily handle;

21 (b) Provide on-route collection at least once each week of source separated recyclable  
22 materials designated by OAR 340-090-0630(4)(b) to residential collection service customers  
23 provided on the same day that solid waste is collected from each customer;

24 (c) Provide a recycling education and promotion program that is expanded from the  
25 minimum requirements described in OAR 340-090-0030(8), and supports the management  
26 of solid waste in the following priority order: first preventing the generation of waste, then  
27 reusing materials, then recycling materials, then composting materials, then recovering  
28 energy, and finally safely disposing of solid waste that cannot be prevented, reused,  
29 recycled, composted or used for energy recovery.

30 (A) Each local government's expanded program must satisfy the applicable requirements of  
31 ORS 459A.008 and OAR 340-090-0041 and:

32 (i) Must inform all solid waste generators of how to prevent waste and how to reuse, recycle  
33 and compost material;

34 (ii) Must inform all solid waste generators of the manner and benefits of preventing waste  
35 and how to reuse, recycle, and compost materials;

- 1 (iii) Must promote the use of recycling services;
- 2 (iv) Must determine the levels of contamination of materials set out for collection and take  
3 action to reduce contamination in collected recyclables; and
- 4 (v) Must target educational and promotional materials provided to commercial customers to  
5 meet the needs of various types of businesses and should include reasons to recycle,  
6 including economic benefits, common barriers to recycling and solutions, additional  
7 resources for commercial generators of solid waste, and other information designed to assist  
8 and encourage recycling efforts. These materials must encourage each commercial generator  
9 of solid waste to strive to achieve 55 percent recovery from its solid waste stream by the  
10 year 2025.
- 11 (B) The expanded program must be provided in one of the two following ways:
- 12 (i) A "Specified Action" program, which must include at a minimum the following elements:
- 13 (I) All new residential and commercial collection service customers must each receive a  
14 packet of educational materials that contain information listing the materials collected, the  
15 schedule for collection, proper method of preparing materials for collection and an  
16 explanation of the reasons why customers should source separate materials for recycling;
- 17 (II) Existing residential and commercial collection service customers must be provided  
18 information identified in OAR 340-090-0040(3)(c)(B)(i)(I) at least four times a calendar  
19 year through a written notice or effective alternative to reach various solid waste generators,  
20 or combination of both;
- 21 (III) At least annually information regarding the benefits of recycling and the type and  
22 amount of materials recycled during the past year must be provided directly to the collection  
23 service customer in written form and must include additional information including the  
24 procedure for preparing materials for collection;
- 25 (IV) Targeting of at least one community or media event per year to promote waste  
26 prevention, reuse, recycling and composting, although not every media event needs to  
27 promote all of those activities;
- 28 (V) Utilizing a variety of materials and media formats to disseminate the information in the  
29 expanded program in order to reach the maximum number of collection service customers  
30 and residential and commercial generators of solid waste; and
- 31 (VI) Development and implementation of a contamination reduction education plan that  
32 satisfies the requirements of OAR 340-090-0041.
- 33 (ii) Development and implementation of an "Expanded Education and Promotion Plan." The  
34 Plan must:
- 35 (I) Include actions to effectively reach solid waste generators and all new and existing  
36 collection service customers;

- 1 (II) Include such actions as necessary to fulfill the intent of this subsection;
- 2 (III) Include a timetable for implementation, and the local government must implement that  
3 timetable;
- 4 (IV) Be submitted to DEQ by February 28 of the first year that the Plan is to be in effect or  
5 within 30 days of the beginning of the local government's fiscal year in which the Plan is  
6 first put into effect.
- 7 (d) Establish and implement a recycling collection program through local ordinance,  
8 contract or any other means enforceable by the appropriate city or county for each multi-  
9 family dwelling complex having five or more units. The collection program must meet the  
10 following requirements:
- 11 (A) Collect recyclable materials identified by OAR 340-090-0630(4)(b);
- 12 (B) Provide educational and promotional information directed toward the residents of multi-  
13 family dwelling units periodically as necessary to be effective in reaching new residents and  
14 reminding existing residents of the opportunity to recycle including the types of materials to  
15 be recycled and the method for properly preparing those materials.
- 16 (e) Establish and implement an effective residential yard debris program to collect and  
17 compost residential yard debris. The program must include the following elements:
- 18 (A) Promotion of home composting of yard debris through written material or some other  
19 effective media form that is directed at the residential generator of yard debris; and either
- 20 (B) At least monthly on-route collection of yard debris from residences for production of  
21 compost or other marketable products; or
- 22 (C) A system of residential yard debris collection depots, for producing compost or other  
23 marketable products, located such that there is at least one conveniently located depot, open  
24 to the public at least once a week, for every 25,000 population.
- 25 (f) Taking into account material generation rates, establish and implement regular, on-site  
26 collection of source separated recyclable materials designated by OAR 340-090-0630(4)(b)  
27 from commercial generators, taking into consideration how the generator could achieve 55  
28 percent recovery from its solid waste stream by the year 2025. This program element does  
29 not apply to manufacturing, business or processing activities in residential dwellings or to  
30 the generation of industrial solid waste. At a minimum the commercial recycling program:
- 31 (A) Must be provided to commercial entities that employ 10 or more persons and occupy  
32 1,000 square feet or more in a single location;
- 33 (B) Must include an education and promotion program that:
- 34 (i) Uses materials and messages specifically designed for commercial generators of solid  
35 waste; and

- 1 (ii) Informs all commercial generators of solid waste of the benefits of recycling, the  
2 recycling opportunities available to them and how to recycle; and
- 3 (iii) If the local government is providing the expanded education and promotion program  
4 element, includes any additional requirements needed to meet OAR 340-090-0040(3)(c);  
5 and
- 6 (iv) Includes information on the benefits of waste prevention to commercial generators.
- 7 (C) Must be conducted to effectively promote the commercial recycling program to  
8 commercial generators of solid waste;
- 9 (D) Must encourage each commercial generator of solid waste to strive to achieve 55  
10 percent recovery from its solid waste stream by the year 2025;
- 11 (E) Should provide other elements including but not limited to:
- 12 (i) Provision of waste assessments to businesses;
- 13 (ii) Provision of recycling receptacles to businesses at no or low cost;
- 14 (iii) Waste prevention and recycling recognition programs. Local governments are  
15 encouraged to involve local business organizations in publicly recognizing outstanding  
16 waste prevention and recycling efforts by commercial generators of solid waste. The  
17 recognition may include awards designed to provide additional incentives to increase waste  
18 prevention and recycling efforts.
- 19 (g) Establish depots for recycling collection of all materials identified in OAR 340-090-  
20 0630(4)(a), and where feasible, additional materials, except that used oil need not be  
21 collected at the depot if another location within the local government unit will accept used  
22 oil for recycling. This program must provide at least one (1) recycling depot in addition to  
23 the depot(s), if any, required by OAR 340-090-0030(1). For any city with a population of  
24 50,000 or more, the minimum number of additional depots must be equal to the city's  
25 population, divided by 25,000, and rounded down to the nearest whole number. The  
26 expanded depot program must include promotion or education that maximizes the use of the  
27 expanded depot program. The depots must operate as follows:
- 28 (A) Have regular and convenient hours for residential generators of solid waste; and
- 29 (B) Be open on at least one weekend day each week; and
- 30 (C) Be established in location(s) that are convenient for residential generators of solid waste  
31 to use.
- 32 (h) Establish collection rates for residential solid waste from single-family residences and  
33 single residential units, in complexes of less than five units that encourage waste prevention,  
34 reuse and recycling. The rates must, at a minimum, include the following elements:



- 1 (A) At least one rate for a container that is 21 gallons or less in size and costs less than  
2 larger containers;
- 3 (B) Rates must be based on the average weight, as determined in paragraph (E) of this  
4 subsection, of solid waste disposed per container for various sizes of containers;
- 5 (C) Rates, as calculated on a per pound disposed basis, may not decrease per pound with the  
6 increasing size of the container or the number of containers;
- 7 (D) Rates per container service must be established such that each additional container  
8 beyond the first container for each residential unit must have a fee charged that is at least the  
9 same fee and no less than the first container; and
- 10 (E) Rates, calculated on a per pound disposed basis, the city or county develops through  
11 their own per pound average weights for various container sizes by sampling and calculating  
12 the average weights for a cross section of containers within their residential service area.
- 13 (i) An on-going system to collect food waste and, optionally, other compostable waste, from  
14 commercial and institutional entities that generate large amounts of such wastes, and  
15 compost it at facilities in compliance with DEQ composting facility rules and local  
16 government regulations:
- 17 (A) Before diverting edible (unwanted) foods to be composted, a local government should  
18 consider how to encourage making them available:
- 19 (i) Through food rescue;
- 20 (ii) Or if charity channels are not available, to farmers for animal feed.
- 21 (B) A commercial composting program must include the following elements:
- 22 (i) On-going promotion of the commercial compost program through written material or  
23 other effective formats directed to targeted commercial generators within the local  
24 government unit, such as grocery stores, restaurants, wholesale flower warehouses, hotels,  
25 businesses and institutions with food service;
- 26 (ii) To avoid problems relating to human health and the environment, periodic collection of  
27 food wastes and, optionally, other compostable wastes, is required from commercial  
28 generators on an appropriate schedule.
- 29 (C) Any composting facility to which collected compostable waste is taken must comply  
30 with DEQ composting facility rules;
- 31 (D) On-site commercial composting should be considered if the location is appropriate,  
32 space is available and the entity complies with DEQ composting facility rules and local  
33 government regulations.

1 (j) A commercial recycling program that requires commercial generators of solid waste that  
2 generate large amounts of recyclable materials to source separate recyclable materials.

3 (A) For subsection (3)(j) of this rule, “large amount commercial generator” means a  
4 commercial generator of solid waste that has a service level of four or more cubic yards of  
5 solid waste per week at a single site.

6 (B) A local government must require participation in its commercial recycling program by  
7 all large amount commercial generators except for generators exempted under paragraph  
8 (3)(j)(F) of this rule.

9 (C) The local government’s commercial recycling program must include requirements for  
10 large amount commercial generators to:

11 (i) Source-separate recyclable materials for reuse or recycling;

12 (ii) Self-haul or arrange for collection service of the source separated recyclable materials;

13 (iii) Provide recycling containers for internal areas where recyclable materials may be  
14 collected, stored, or both; and

15 (iv) Correctly label all interior and exterior containers and post signs where recyclable  
16 materials may be collected, stored, or both that identify the materials that the large amount  
17 commercial generator must source-separate for reuse or recycling and that provide recycling  
18 instructions.

19 (D) The local government must provide education and promotion that meets at least the  
20 minimum requirements described in OAR 340-090-0030(8) for all large amount commercial  
21 generators.

22 (E) To ensure compliance with the requirements in this subsection, the local government  
23 must establish a method for identification and monitoring of large amount commercial  
24 generators.

25 (i) If a large amount commercial generator is not in compliance with the requirements of this  
26 subsection, then the local government must, at a minimum, notify that large amount  
27 commercial generator that it is out of compliance.

28 (ii) For a noncomplying large amount commercial generator, the local government may also  
29 consider a penalty or fine structure that incorporates warning notices, civil injunctions,  
30 financial penalties, or criminal prosecutions.

31 (F) The local government may allow for limited exemptions from the requirements of this  
32 subsection for reasons that the local government deems appropriate, such as zoning  
33 requirements, lack of sufficient space to provide additional recycling containers, or non-  
34 generation of recyclable materials.

1 (G) The local government may consider certification requirements for self-haulers of source-  
2 separated recyclable materials. Those certification requirements may include, but are not  
3 limited to, requiring large amount commercial generators to maintain written records  
4 demonstrating that all self-hauling activities have been completed in compliance with the  
5 requirements of this subsection (3)(j).

6 (k) A program for monthly or more frequent on-route collection and composting for food  
7 waste and, optionally, other compostable waste from residential collection service  
8 customers.

9 (A) The local government must provide education or promotion that meets at least the  
10 minimum requirements described in OAR 340-090-0030(8) for all residential collection  
11 service customers.

12 (B) In addition to the requirements of subsection (3)(k)(A) of this rule, the local  
13 government's education or promotion to all residential collection service customers must  
14 include:

15 (i) Types of food waste collected;

16 (ii) The schedule for collection;

17 (iii) Methods of preparing food waste for collection;

18 (iv) Explanations of why separating food waste for recovery is necessary; and

19 (v) Explanations of how to reduce contamination of the food waste recovery stream set out  
20 for collection.

21 (l) A recovery program for construction and demolition debris.

22 (A) As used in subsection (3)(l) of this rule, "construction and demolition debris" means  
23 waste resulting from the construction, renovation, repair, or demolition of buildings or other  
24 structures that contain recyclable material. "Construction and demolition debris" does not  
25 include putrescible wastes, hazardous waste, or asbestos.

26 (B) The recovery program for construction and demolition debris must:

27 (i) Require that construction and demolition debris be source separated at the site of  
28 generation or be sent to a material recovery facility for processing and recovery; and

29 (ii) Include an education or promotion program for developers, contractors, and residential  
30 owners that provides strategies:

31 (I) To reduce waste during preconstruction planning and in building construction, renovation  
32 and demolition phases; and

33 (II) To direct waste to reuse and material recovery facilities.

- 1 (C) Generators subject to this program include any person who:
- 2 (i) Generates and self-hauls a minimum of six cubic yards of construction and demolition  
3 debris at any time; or
- 4 (ii) Generates and arranges for collection service of a minimum of ten cubic yards of  
5 construction and demolition debris at any time.
- 6 (D) The local government must provide education or promotion that meets at least the  
7 minimum requirements described in OAR 340-090-0030(8) for all generators of  
8 construction and demolition debris that are subject to the recovery program for that debris.
- 9 (m) A food waste collection program requiring nonresidential generators that generate large  
10 amounts of food waste to source-separate the food waste for recovery.
- 11 (A) For subsection (3)(m) of this rule:
- 12 (i) “Nonresidential generator” means a commercial generator or other generator but not a  
13 residential or multi-family generator; and
- 14 (ii) “Large amount nonresidential generator” means a nonresidential generator that disposes  
15 of more than fifty tons of food waste annually.
- 16 (B) The local government must require participation in its food waste collection program by  
17 all large amount nonresidential generators except for generators exempted under paragraph  
18 (3)(m)(F) of this rule.
- 19 (C) The local government’s food waste collection program must include requirements for  
20 large amount nonresidential generators to:
- 21 (i) Cover, at a minimum, food waste that is not packaged and for which final disposal by the  
22 large amount nonresidential generator is controlled by the nonresidential generator’s  
23 employees or agents;
- 24 (ii) Source-separate food waste for donation or food waste collection;
- 25 (iii) Self-haul or arrange for collection service of the food waste;
- 26 (iv) Provide containers for internal areas where food waste may be collected, stored, or both;  
27 and
- 28 (v) Correctly label all interior and exterior containers and post signs and instructions where  
29 food waste is collected, stored, or both, that identifies the types of food waste the large  
30 amount nonresidential generator must source-separate for donation or food waste collection.
- 31 (D) The local government must provide education or promotion that meets at least the  
32 minimum requirements described in OAR 340-090-0030(8) for all large amount  
33 nonresidential generators.

1 (E) To ensure compliance with the requirements in this subsection, the local government  
2 must establish a method for identification and monitoring of large amount nonresidential  
3 generators.

4 (i) If a large amount nonresidential generator is not in compliance with the requirements of  
5 this subsection, then the local government must, at a minimum, notify that large amount  
6 nonresidential generator that it is out of compliance.

7 (ii) For a noncomplying large amount nonresidential generator, a local government may also  
8 consider a penalty or fine structure that incorporates warning notices, civil injunctions,  
9 financial penalties, or criminal prosecutions.

10 (F) The local government may allow for limited exemptions from the requirements of this  
11 subsection for reasons that the local government deems appropriate, such as zoning  
12 requirements or lack of sufficient space to provide additional food waste containers.

13 (G) The local government may consider certification requirements for self-haulers of food  
14 waste. Those certification requirements may include, but are not limited to, requiring large  
15 amount nonresidential generators of food waste to maintain written records demonstrating  
16 that all self-hauling activities have been completed in compliance with the requirements of  
17 this subsection (3)(m).

18 (4) In addition to the requirements in sections (1) and (2) of this rule, each city with a  
19 population of 4,000 or more and any county responsible for the area within a metropolitan  
20 service district or the area between the city limits and the urban growth boundary of that city  
21 in any of the following wastesheds must provide the opportunity to recycle rigid plastic  
22 containers if the conditions set forth in section (5) of this rule are met:

23 (a) Clackamas, Multnomah and Washington Counties, in aggregate, as a single wasteshed;

24 (b) Benton wasteshed;

25 (c) Clatsop wasteshed;

26 (d) Columbia wasteshed;

27 (e) Deschutes wasteshed;

28 (f) Douglas wasteshed;

29 (g) Hood River wasteshed;

30 (h) Jackson wasteshed;

31 (i) Josephine wasteshed;

32 (j) Lane wasteshed;

33 (k) Linn wasteshed;

1 (l) Marion wasteshed;

2 (m) Polk wasteshed;

3 (n) Wasco wasteshed; and

4 (o) Yamhill wasteshed.

5 (5) The opportunity to recycle rigid plastic containers is required within a wasteshed when a  
6 stable market price for rigid plastic containers, that equals or exceeds 75 percent of the  
7 necessary and reasonable collection costs for those containers, exists for such wasteshed.

8 **Statutory/Other Authority:** ORS 459.045, 459A.025, 459A.100 - 459A.120 & 468.020

9 **Statutes/Other Implemented:** ORS 459A.005, 459A.007, 459A.008, 459A.010 &  
10 459A.665

11 **History:**

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13 DEQ 3-2017, f. & cert. ef. 1-19-17

14 DEQ 8-2005, f. & cert. ef. 7-14-05

15 DEQ 27-1998, f. & cert. ef. 11-13-98

16 DEQ 9-1996, f. & cert. ef. 7-10-96

17 DEQ 10-1994, f. & cert. ef. 5-4-94

18 DEQ 31-1992, f. & cert. ef. 12-18-92 (and corrected 1-5-93)

19 **340-090-0042**

20 **Waste Prevention and Reuse Programs**

21 (1) As required by ORS 459A.007, certain local governments must implement the waste  
22 prevention education and reuse program element listed in section (2) in this rule and choose  
23 two or four additional elements from sections (3) through (8) of this rule, depending on the  
24 local governments' populations and locations. Each city that is within a metropolitan service  
25 district or with a population of greater than 50,000 and each county that is responsible for  
26 the area between city limits and the urban growth boundary of a city with a population of  
27 greater than 50,000 or the area outside of city limits but within a metropolitan service  
28 district urban growth boundary must implement either: the waste prevention and reuse  
29 program element in section (2) and at least four additional elements from sections (3)  
30 through (8) of this rule; or an alternative program that is designed to achieve similar benefits  
31 as this rule and complies with OAR 340-090-0080(7). Each city with a population of greater  
32 than 10,000 but no more than 50,000, that is within a county of greater than 100,000  
33 population, and each county of greater than 100,000 population that is responsible for the  
34 area between city limits and the urban growth boundary of a city with a population of  
35 greater than 10,000 but no more than 50,000 must implement either: the waste prevention  
36 and reuse program element in section (2) and at least two additional elements from sections  
37 (3) through (8) of this rule; or an alternative program that is designed to achieve similar  
38 benefits as this rule and complies with OAR 340-090-0080(7). Waste prevention education  
39 and reuse program elements in this rule that are implemented by a county or metropolitan  
40 service district may be used by a city within the county or metropolitan service district to

1 meet the requirements of this rule, provided that the elements are made available throughout  
2 the entire city, including the area between the city limits and the urban growth boundary of  
3 that city. Waste prevention and reuse program elements implemented by a metropolitan  
4 service district may be used by a county that includes or is within the metropolitan service  
5 district to meet the requirements of this section, provided that the elements are made  
6 available throughout the entire urban growth boundary of the metropolitan service district.

7 (2) Citywide or countywide education and promotion. A citywide or countywide education  
8 and promotion program about the environmental benefits of, and opportunities to reduce the  
9 generation of waste through, waste prevention and reuse.

10 (a) The education and promotion program must include the following components:

11 (A) Information for existing residential and commercial collection service customers that:

12 (i) Is designed to reach solid waste generators and is provided at least four times per  
13 calendar year through: written notice, an effective alternative, or some combination of both;

14 (ii) Describes the benefits of generating less waste in terms of the reduction in a material's  
15 environmental impact as part of its life cycle, including upstream impacts, such as resource  
16 extraction and manufacturing; and

17 (iii) Addresses how to generate less waste, how to reuse materials, and solutions to common  
18 challenges to waste prevention and reuse.

19 (B) An activity targeting at least one community or one media event each year that promotes  
20 waste prevention and reuse, such as a waste prevention booth at a county fair or a  
21 community cleanup event that includes a sale or giveaway component to encourage reuse of  
22 discarded articles. This activity or event must be in addition to any campaigns used to  
23 comply with sections (3) or (4) of this rule. An activity or event may promote waste  
24 prevention activities, reuse activities, or some combination of both.

25 (b) To reach the maximum number of residential and commercial solid waste generators, the  
26 education and promotion program must utilize a variety of materials and media formats to  
27 disseminate information.

28 (c) Each local government must submit to DEQ a program plan during the first year the plan  
29 is in effect. The plan must use either a format that DEQ provides or an alternative written  
30 format chosen by the local government. Thereafter, the local government must submit a  
31 summary of activities in the plan to DEQ at the same time the local government submits its  
32 periodic report under OAR 340-090-0100. The plan must describe how it will implement the  
33 elements in subsections (2)(a) and (3)(b) of this rule, including:

34 (A) A description of the information to be provided, including messages to be conveyed,  
35 program material format and general content, and schedules for distribution;

1 (B) A description of how the information meets the needs of various types of residential  
2 generators, such as multi-family or rural residents, and various types of commercial and  
3 institutional generators;

4 (C) A description of how information will be provided, such as through events, volunteer  
5 activities, community meetings and presentations, or door-to door outreach; and

6 (D) A description of who will provide the information, such as local government staff,  
7 collectors, depot operators, disposal site operators, and non-governmental organizations.

8 (3) Waste prevention campaign targeting residential generators. A waste prevention  
9 campaign targeting residential generators of waste and focused on one or more toxic or  
10 energy intensive materials or consumer purchasing practices. As used in this section,  
11 “consumer purchasing practices” means the act of purchasing a toxic or energy intensive  
12 material, a product containing toxic materials, or a product consisting at least 50 percent by  
13 weight of energy intensive materials. A food rescue program is not a waste prevention  
14 campaign for the purpose of complying with this section. The campaign must meet the  
15 following criteria:

16 (a) For either a campaign that DEQ provides or an alternative campaign that the local  
17 government chooses and DEQ approves, each local government must develop, submit to  
18 DEQ, and implement a campaign plan that:

19 (A) Identifies at least one specific waste generating behavior or practice targeted for change;

20 (B) Describes the campaign’s strategy;

21 (C) Describes the campaign materials’ general content, format, and delivery methods;

22 (D) Provides an implementation schedule; and

23 (E) Describes a performance measurement plan that specifies one or more outcomes that the  
24 local government will use to demonstrate its campaign reached the target audience or  
25 achieved its waste prevention objective.

26 (b) Campaign materials must include multiple components that may be used sequentially or  
27 on a rotational basis to meet the required refreshing schedule in subsection (3)(c) of this  
28 rule. Such components may include materials using:

29 (A) Different visual images to convey core messaging;

30 (B) Variations on core messaging language; or

31 (C) A variety of media, such as print, websites, social media, or radio.

32 (c) The duration of a campaign may not exceed five years, and the local government’s  
33 implementation schedule must include a schedule for refreshing components of the  
34 campaign at least once every two years. To “refresh” components of a campaign means to



1 use new or different components to deliver messages in a different way. A local government  
2 may also request, and DEQ may approve, a campaign duration or implementation schedule  
3 that differs from this subsection's schedule for refreshing components provided that the  
4 local government can demonstrate:

5 (A) That the campaign or one of its components has contributed to the desired behavior  
6 change; and

7 (B) That continuing the campaign or one of its components is likely to result in further  
8 desired changes in behavior or practices.

9 (d) Educational materials used in this campaign must be in addition to educational materials  
10 used to satisfy the requirements of section (2) of this rule.

11 (4) Waste prevention campaign targeting commercial generators. A waste prevention  
12 campaign targeting commercial or institutional generators of waste and focused on one or  
13 more toxic or energy intensive materials or consumer purchasing practices. As used in this  
14 section, "consumer purchasing practices" means the act of purchasing a toxic or energy  
15 intensive material, a product containing toxic materials, or a product consisting at least 50  
16 percent by weight of energy intensive materials. A targeted business assistance program  
17 qualify as a campaign if that program includes components that promote changes in waste  
18 generating behavior or practices consistent with the requirements of this section and targets  
19 businesses with applicable waste generating behaviors or practices. A food rescue program  
20 is not a waste prevention campaign for the purpose of complying with this section. The  
21 campaign must meet the following criteria:

22 (a) For either a campaign DEQ provides or an alternative campaign the local government  
23 chooses and DEQ approves, each local government must develop, submit to DEQ, and  
24 implement a campaign plan that:

25 (A) Identifies at least one specific waste generating behavior or practice targeted for change;

26 (B) Describes the campaign's strategy;

27 (C) Describes the campaign materials' general content, format and delivery methods;

28 (D) Provides an implementation schedule; and

29 (E) Describes a performance measurement plan that specifies one or more outcomes that the  
30 local government will use to demonstrate its campaign reached the target audience or  
31 achieved its waste prevention objective.

32 (b) Campaign materials must include multiple components that may be used sequentially or  
33 on a rotational basis to meet the required refreshing schedule in subsection (5)(c) of this  
34 rule. Such components may include materials using:

35 (A) Different visual images to convey core messaging;

- 1 (B) Variations on core messaging language; or
- 2 (C) A variety of media, such as print, websites, social media, or radio.
- 3 (c) The duration of a campaign may not exceed five years, and the local government's  
4 implementation schedule must include a schedule for refreshing components of the  
5 campaign at least once every two years. To "refresh" components of a campaign means to  
6 use new or different components to deliver messages in a different way. A local government  
7 may also request, and DEQ may approve, a campaign duration or implementation schedule  
8 that differs from this subsection's schedule for refreshing components provided that the  
9 local government can demonstrate:
- 10 (A) That the campaign or one of its components has contributed to the desired behavior  
11 change; and
- 12 (B) That continuing the campaign or one of its components is likely to result in further  
13 desired changes in behavior or practices.
- 14 (d) Educational materials used in this campaign must be in addition to educational materials  
15 used to satisfy the requirements of section (2) of this rule.
- 16 (5) Education program in schools. A waste prevention and reuse education program in  
17 elementary and secondary schools must satisfy the following criteria:
- 18 (a) Each local government must develop, submit to DEQ, and implement a plan to deliver  
19 elementary and secondary school education and promotion programs, that:
- 20 (A) Identifies groups or classes of students;
- 21 (B) Describes how the program will engage the students;
- 22 (C) Identifies at least one specific waste generating behavior or practice targeted for change  
23 and barriers to that change;
- 24 (D) Provides an implementation schedule; and
- 25 (E) Describes a performance measurement plan that specifies one or more outcomes that the  
26 local government will use to demonstrate its education program reached the students or  
27 achieved its waste prevention and reuse objectives.
- 28 (b) The education program must address students in both elementary and secondary schools  
29 and may include activities such as:
- 30 (A) Classroom presentations;
- 31 (B) School assemblies;
- 32 (C) Classroom curricular activities, such as service learning projects;

1 (D) After school programs;

2 (E) Field trips with a substantial focus on reducing waste generation, such as tours of tool  
3 libraries or food rescue facilities; or

4 (F) Student education implemented as part of in-school waste prevention and reuse  
5 programs, such as school cafeteria projects to measure and reduce food waste.

6 (c) If the program is a general waste prevention and reuse education and outreach program  
7 designed primarily to deliver information and increase knowledge about actions that support  
8 waste prevention and reuse, then the program must provide education to at least 5 percent of  
9 all elementary and secondary students attending public school within the area served by the  
10 local government in each calendar year for which this element is used to comply with waste  
11 prevention and reuse program requirements, or 10 percent of all students where a program is  
12 being implemented over two consecutive years. A local government may use total  
13 enrollment numbers reported to the Oregon Department of Education to determine the  
14 number of students its program must reach or may propose, with justification, to DEQ an  
15 alternative total enrollment number. A local government may, at its discretion, provide  
16 education to private school students or to students attending school while in a correctional  
17 facility to meet required targets. A city or county may comply with this element through  
18 compliance by its county or metropolitan service district provided that:

19 (A) The education by the county or metropolitan service district is made available to all  
20 schools within the area served by the local government using this element to comply with  
21 waste prevention and reuse requirements; and

22 (B) The county or metropolitan service district is providing the education to at least this  
23 element's percentage threshold of elementary and secondary students in each calendar year  
24 for which this element is used to comply.

25 (d) A local government may propose a metric, besides the percentage in subsection (5)(c) of  
26 this rule, for approval by DEQ that allows for more in-depth programs designed to engage a  
27 smaller number of students. The proposal must explain how targeting a smaller number of  
28 students supports longer-term engagement in elementary and secondary education on waste  
29 prevention and reuse.

30 (e) Local governments may not use education programs used to demonstrate compliance  
31 with the requirements of OAR 340-090-0042(5) to demonstrate compliance with any other  
32 waste prevention and reuse program element in this rule.

33 (6) Funding or infrastructure support program. A program either for the provision of city,  
34 county, or watershed funding or for the provision of city, county, or watershed infrastructure  
35 support to promote and sustain reuse, repair, leasing or sharing efforts. The program must  
36 meet the following criteria:

37 (a) A local government must identify the specific forms of funding or infrastructure support  
38 the local government will provide to support reuse, repair, leasing or sharing activities and

1 describe how the funding or infrastructure support contributes to sustaining and, where  
2 possible, expanding reuse, repair, leasing or sharing efforts within the local government unit.

3 (b) Support must be provided annually unless a local government provides funding or  
4 monetized infrastructure support in an amount larger than that required under subsection  
5 (6)(c) of this rule and the amount of that funding or monetized support, when amortized over  
6 multiple years, is at least equivalent to the annual support the local government would  
7 otherwise provide.

8 (c) If a city, county, or watershed chooses to use direct funding to comply with the  
9 requirements of this section, annual funding must be no less than \$0.17 per local  
10 government unit resident for jurisdictions with populations up to 100,000 in population and  
11 \$17,000 plus \$0.10 per local government unit resident above 100,000 in population for  
12 jurisdictions with populations above 100,000, adjusted annually for inflation from a base  
13 year of 2016 using the West Region Consumer Price Index for All Urban Consumers for All  
14 Items, as published by the Bureau of Labor Statistics of the United States Department of  
15 Labor.

16 (d) If a city, county, or watershed chooses to provide infrastructure support to comply with  
17 the requirements of this section, that support must result in a reuse, repair, lease or sharing  
18 opportunity that is provided continuously or on at least 1 day per year for every 50,000 in  
19 the local government unit's population or monetized at a value equal to the funding required  
20 in subsection (6)(c) of this rule.

21 (e) Funding may include: grants; payments on behalf of organizations for equipment;  
22 funding to cover the costs of outreach efforts, such as website development, development of  
23 social media venues and media buys; or funding to allow reuse, repair, or sharing  
24 organizations to pay staff or contractors for program development, implementation, or both.  
25 However, funding of outreach efforts does not qualify as satisfying this element if that  
26 outreach is also used to satisfy the technical assistance requirements of section (7) of this  
27 rule.

28 (f) A city or county may comply with this element through compliance by its county or  
29 metropolitan service district provided that the infrastructure supported by the county or  
30 metropolitan service district is accessible and convenient to residents and businesses of the  
31 city or county.

32 (7) Technical assistance program. A program for the provision of city or watershed technical  
33 assistance to promote and sustain the reuse, repair or leasing of materials or other sharing of  
34 efforts to reduce waste. The program must meet the following criteria:

35 (a) A local government must identify the specific forms of technical assistance the local  
36 government will provide to support reuse, repair, leasing or sharing activities and must  
37 describe how the technical assistance contributes to sustaining and, where possible,  
38 expanding reuse, repair, leasing or sharing efforts within the local government unit.

39 (b) A local government may satisfy the requirements of this element through a partnership  
40 with another governmental agency, a local non-governmental organization or private

1 enterprise provided that this partnership is documented in a written agreement, such as a  
2 memorandum of understanding, an intergovernmental agreement, a franchise agreement or  
3 other contract vehicle, and:

4 (A) The agreement specifies the local government's contribution to the partnership. The  
5 local government's contribution must be more than nominal support. Examples of sufficient  
6 contributions include supporting ordinances or waived fees, including license fees,  
7 commitments to support volunteer recruitment, requirements that a partner implements a  
8 program on behalf of a local government, promotion that supports implementation of the  
9 partner organization's project, facilitating community meetings or workshops to support  
10 information exchange or project development, participation of local government staff on  
11 organizational boards, and providing communications channels through local government  
12 websites or other media; and

13 (B) The agreement specifies annual reporting of outcomes, such as increased borrowing at a  
14 tool library, pounds of building materials or household goods salvaged from solid waste  
15 disposal, or number and types of materials exchanged through a commercial or residential  
16 exchange website or distribution center that can be linked to the partnership and demonstrate  
17 year-to-year progress in reuse, repair or otherwise reducing waste.

18 (c) Technical assistance in the form of promotion, outreach or education used to comply  
19 with the requirements of OAR 340-090-0042(7) cannot also be used to demonstrate  
20 compliance with any other waste prevention and reuse program element.

21 (8) Food rescue program support. Support by a local government for a food rescue program.  
22 The local government's support must meet the following criteria:

23 (a) The local government must identify and describe specific support for a food rescue  
24 program within the local government unit.

25 (b) A local government's support must include at least two of the following components:

26 (A) A review of local health ordinances or other local government regulations that may  
27 create regulatory barriers to food rescue, identifying regulatory barriers to food rescue, and  
28 implementing solutions needed to facilitate food rescue. Such solutions could include, but  
29 are not limited to, recommending revisions to regulations or seeking authorization from a  
30 local health agency to take an action necessary to facilitate food rescue. Local ordinance  
31 review would be sufficient to constitute support for one component for two years.

32 (B) Funding, which may include: grants or payments on behalf of organizations for  
33 equipment, vehicles or building space; and stipends or other payments for gleaners and other  
34 food rescue workers. The annual amount of such funding must be no less than \$0.17 per  
35 local government unit resident for jurisdictions with populations up to 100,000 in population  
36 and \$17,000 plus \$0.10 per local government unit resident above 100,000 in population for  
37 jurisdictions with populations above 100,000, adjusted annually for inflation from a base  
38 year of 2016 using the West Region Consumer Price Index for All Urban Consumers for All  
39 Items, as published by the Bureau of Labor Statistics of the United States Department of  
40 Labor.

1 (C) Infrastructure support that may include: providing space for rescued food storage; loan  
2 of vehicles for food transport; and development and implementation of donor matching  
3 programs or farm to food bank programs. Infrastructure support must result in a food rescue  
4 opportunity that is provided continuously or on at least one day per year for every 50,000  
5 residents in the local government unit or monetized at a value equal to the funding required  
6 in paragraph (8)(b)(B) of this rule.

7 (D) Technical assistance that may include: convening meetings to assist in developing a  
8 food rescue program; a local government website page to inform and promote food rescue  
9 opportunities; providing other program education and promotional support; developing  
10 success stories for use in promotional materials; and supporting measurement programs to  
11 help develop programs and demonstrate the efficacy of food rescue.

12 (c) A local government may satisfy the technical assistance requirements of this element  
13 through a partnership with another governmental agency, a local non-governmental  
14 organization or private enterprise provided that this partnership is documented in a written  
15 agreement, such as a memorandum of understanding, an intergovernmental agreement, a  
16 franchise agreement or other contract vehicle, and:

17 (A) The agreement specifies the local government's contribution to the partnership. The  
18 local government's contribution must be more than nominal support. Examples of sufficient  
19 contributions include supporting ordinances or waived fees, including license fees,  
20 commitments to support volunteer recruitment, requirements that a partner implements a  
21 program on behalf of a local government, promotion that supports implementation of the  
22 partner organization's project, facilitating community meetings or workshops to support  
23 information exchange or project development, participation of local government staff on  
24 organizational boards, and providing communications channels through local government  
25 websites or other media; and

26 (B) The agreement specifies annual reporting of outcomes, such as increased food diverted  
27 to food assistance programs, that can be linked to the partnership and demonstrate year-to-  
28 year progress in food rescue.

29 (d) Support must be provided annually unless a local government provides funding or  
30 monetized infrastructure support in an amount larger than that required under subsection  
31 (8)(b) of this rule and the amount of that funding or monetized support, when amortized  
32 over multiple years, is at least equivalent to the annual support that the local government  
33 would otherwise provide.

34 (e) A city or county may comply with this section (8) through compliance by its county or  
35 metropolitan service district provided that the county- or metropolitan service district-  
36 supported food rescue program either collects from sources of food in the city or county or  
37 redistributes food to residents of the city or county.

38 **Statutory/Other Authority:** 459.045, 459A.025 & 468.020.

39 **Statutes/Other Implemented:** 459A.007, 459A.010 & 459A.050

1 **History:**  
2 DEQ 3-2017, f. & cert. ef. 1-19-17

3 **340-090-0080**

4 **Alternative Methods for Providing the Opportunity to Recycle**

5 This rule describes the necessary procedures and requirements that a city, county,  
6 metropolitan service district, or disposal site permittee on behalf of an out-of-state person  
7 must follow in order to request approval of an alternative program for meeting the  
8 requirements of OAR 340-090-0030, 340-090-0040, and 340-090-0042.

9 (1) The city, county or metropolitan service district responsible for solid waste management  
10 may apply for and request approval by DEQ of an alternative program for providing the  
11 opportunity to recycle. Each request must be made in writing to DEQ on a form DEQ  
12 provides. The request for an alternative program must be complete, signed by the  
13 appropriate authority for the city, county, metropolitan service district or disposal site  
14 permittee for an out-of-state request and address all of the requirements in section (3) of this  
15 rule and sections (5) and (6) of this rule if applicable.

16 (2) DEQ will review applications as they are received. DEQ will approve, approve with  
17 conditions, or reject each proposed alternative program based on consideration of the criteria  
18 described in section (3) of this rule.

19 (3) Each application for approval of an alternative program for providing the opportunity to  
20 recycle must include detailed written information and data on the following:

21 (a) A description of the alternative program being proposed and how it is different from the  
22 standard method that would be required to be implemented under the opportunity to recycle  
23 requirements;

24 (b) The conditions and factors that make the alternative program necessary;

25 (c) How the alternative program is convenient to the commercial and residential generators  
26 of solid waste using or receiving the service;

27 (d) How the alternative program is as effective in recovering recyclable materials from solid  
28 waste as the requirements in OAR 340-090-0020, 340-090-0030, 340-090-0040, and 340-  
29 090-0050 for providing the opportunity to recycle.

30 (e) How the alternative program would achieve at least the lesser of:

31 (A) The local government unit's wasteshed recovery rate goal specified in OAR 340-090-  
32 0050; or

33 (B) Recovery levels comparable to similar communities. For the purposes of this rule,  
34 "similar community" means another local government unit that is similar, for the purpose of  
35 DEQ's evaluation of the local government's alternative program, based on:

- 1 (i) Population or population density;
- 2 (ii) Relevant demographics;
- 3 (iii) Distance to a market for material collected for recycling;
- 4 (iv) Costs of collection and disposal; and
- 5 (v) Other criteria DEQ approves.

6 (4) Anytime a city, county, metropolitan service district, or disposal site permittee on behalf  
7 of an out-of-state person desires to make changes to the approved alternative program, they  
8 must submit an amended application for DEQ's approval following the same requirements  
9 in sections (3), (5) and (6) of this rule.

10 (5) In addition to any other standards or conditions, an alternative program for providing the  
11 opportunity to recycle yard debris in the Metro watershed must meet the following  
12 minimum standards:

13 (a) The alternative program is available to substantially all yard debris generators in the  
14 local jurisdiction;

15 (b) The alternative program can be demonstrated to result in the recycling of yard debris  
16 from the solid waste stream;

17 (c) There is a promotion campaign that is designed to inform all potential users about the  
18 availability and use of the method;

19 (d) The city, county or metropolitan service district must individually or jointly, through  
20 intergovernmental agreement, choose from the following yard debris recycling program  
21 options as an alternative program:

22 (A) Provide monthly or more often on-route collection of yard debris during the months of  
23 April through October with drop-off depots for non-collection service customers available at  
24 least monthly;

25 (B) Provide biweekly or more often yard debris collection depots within one mile of yard  
26 debris generators, or such that there is at least one conveniently located depot for every  
27 25,000 population; or

28 (C) Provide monthly or more often yard debris collection, supplemented by a weekly or  
29 more often yard debris depot during the months of April through October, both within one  
30 mile of the yard debris generators, or such that there is at least one conveniently located  
31 depot for every 25,000 population.

32 (e) If the alternative program is proposed by a metropolitan service district the alternative  
33 program request must include written commitments from the local governments covered by



1 the program to implement the program or a demonstration of the metropolitan service  
2 district's authority to implement the program.

3 (6) In addition to the requirements in section (3) of this rule, when a disposal site permittee  
4 is requesting approval of an alternative program for an out-of-state person the following  
5 criteria must be met:

6 (a) For the purposes of satisfying the requirement in subsection (3)(b) of this rule for a local  
7 government unit the alternative program must designate a watershed having a common solid  
8 waste disposal system or an appropriate area within which to carry out a common recycling  
9 program and select and provide justification for an appropriate recovery rate based on  
10 similar watershed characteristics in Oregon including population density, and distance to  
11 recycling markets;

12 (b) For persons other than local government units the request for alternative program  
13 approval must provide information explaining how the alternative program provides the  
14 opportunity for the person to reduce the amount of waste that would be disposed and a  
15 description of how the alternative program is implemented.

16 (7) Instead of a local government implementing a waste prevention and reuse program under  
17 OAR 340-090-0042, a local government may apply for DEQ's approval of an alternative  
18 waste prevention and reuse program. To apply, a local government must follow these  
19 procedures:

20 (a) Each application for an alternative waste prevention and reuse must be made in writing  
21 on a form that DEQ provides. The application must be complete, signed by the local  
22 government, and address all of the requirements in section (3) of this rule.

23 (b) DEQ will review applications as they are received. For each application, using the  
24 information in subsection (c) of this rule, DEQ must, for the proposed alternative waste  
25 prevention and reuse program:

26 (A) Approve the proposed program;

27 (B) Approve the proposed program with conditions; or

28 (C) Reject the proposed program.

29 (c) Each application must include the following detailed information:

30 (A) A description of the proposed alternative waste prevention and reuse program;

31 (B) Explanations of how the proposed alternative waste prevention and reuse program  
32 would be different than and designed to achieve similar benefits as the waste prevention and  
33 reuse program that would otherwise be required under rule;

34 (C) A written plan describing how the proposed alternative waste prevention and reuse  
35 program would provide citywide or countywide education and promotion about the

1 environmental benefits of, and opportunities to reduce the generation of waste through,  
2 waste prevention and reuse in the local government unit;

3 (D) An explanation of the conditions and factors that make the proposed alternative waste  
4 prevention and reuse program preferable; and

5 (E) A description of waste generating behaviors targeted for change for residential and  
6 commercial generators of solid waste in the local government unit and how that change  
7 would be measured.

8 **Statutory/Other Authority:** ORS 459A.025, 459.045 & 468.020

9 **Statutes/Other Implemented:** ORS 459A.005, 459A.010, 459A.025 & 459A.055

10 **History:**

11 DEQ 3-2017, f. & cert. ef. 1-19-17

12 DEQ 31-1992, f. & cert. ef. 12-18-92, Renumbered from 340-060-0035 & 340-060-0125

13 DEQ 27-1988, f. & cert. ef. 9-16-88

14 DEQ 26-1984, f. & cert. ef. 12-26-84

15 **340-090-0090**

16 **Collection of Recyclable Materials**

17 (1) DEQ may not require any city, county, or metropolitan service district, or agent thereof,  
18 to collect or receive source separated recyclable material which has not been correctly  
19 prepared to reasonable specifications which relate to marketing, transportation, storage, or  
20 regulatory agency requirements. The specifications for material preparation must have been  
21 publicized by the appropriate city, county or metropolitan service district as part of the  
22 education and promotion program requirements in OAR 340-090-0020, 340-090-0030, and  
23 340-090-0040.

24 (2) In addition to the provisions set forth in ORS 459A.080, no person shall dispose of  
25 source separated recyclable material which has been collected or received from the  
26 generator by any method other than reuse or recycling except as follows:

27 (a) Used oil and wood waste may be collected and burned for energy recovery.

28 (b) For covered products pursuant to ORS 459A.863(6), a method other than reuse or  
29 recycling may be used if proposed by a producer responsibility organization in a program  
30 plan, and that program plan is approved by DEQ. The proposal must include an assessment  
31 of environmental impacts and demonstration of consistency with the policy objectives  
32 contained in ORS 459.015(2)(a).

33 (c) For any recyclable materials not included in subsections (a) or (b), a method other than  
34 reuse or recycling may be used if an assessment of the environmental impacts of the method  
35 demonstrates to DEQ's satisfaction that the method provides better environmental outcomes  
36 and is consistent with the policy objectives contained in ORS 459.015(2)(a).

37 (3) Commercial and residential recyclable materials that are source separated for collection  
38 on-route or on-site but that are not correctly prepared according to reasonable specifications

1 as set forth by the city, county or metropolitan service district under section (1) of this rule  
2 may not be required to be collected and may be left with the generator of the source  
3 separated material or may be collected and prepared for recycling by the collector, but may  
4 not be disposed of by the collector. The generator of the material must be provided with  
5 written information that explains correct material preparation for the purposes of educating  
6 the generator.

7 (4) Unauthorized materials that are deposited by the generator at a recycling depot are  
8 exempt from the prohibition in sections (1), (2), and (3) of this rule and must be managed in  
9 the appropriate manner otherwise required by law.

10 (5) Collected recyclable material later found to be contaminated with hazardous substances  
11 are exempt from the prohibition in sections (1), (2), and (3) of this rule and must be  
12 managed in an appropriate manner otherwise required by law.

13 **Statutory/Other Authority:** ORS 459A.025, 459.045, 459A.005 - 459A.085 & 468.020

14 **Statutes/Other Implemented:** ORS 459A.080

15 **History:**

16 DEQ 3-2017, f. & cert. ef. 1-19-17

17 DEQ 27-1998, f. & cert. ef. 11-13-98

18 DEQ 31-1992, f. & cert. ef. 12-18-92, Renumbered from 340-060-0075 & 340-060-0080

19 DEQ 9-1991, f. & cert. ef. 6-20-91

20 DEQ 1-1989, f. & cert. ef. 1-27-89

21 DEQ 27-1988, f. & cert. ef. 9-16-88

22 DEQ 26-1984, f. & cert. ef. 12-26-84

23 **340-090-0110**

24 **Minimum Content Reporting Requirements**

25 The following information must be reported to DEQ by February 28 of each year for the  
26 previous calendar year by the applicable person on a form DEQ provides:

27 (1) Each consumer of newsprint in Oregon must report the following information:

28 (a) Amount of newsprint used in a calendar year in short tons or metric tons;

29 (b) Amount of recycled-content newsprint, comprised of post-consumer waste paper, used in  
30 a calendar year in short tons or metric tons;

31 (c) Aggregate recycled content of the newsprint used in a calendar year expressed as a  
32 percent of the total newsprint used in a calendar year in short tons;

33 (d) If a consumer cannot obtain the required amount of recycled content newsprint for the  
34 reasons listed in ORS 459A.505, the report must include an appropriate explanation;

35 (e) For purposes of this section only "post-consumer waste" means a material that would  
36 normally be disposed of as a solid waste, having completed its life cycle as a consumer or  
37 manufacturing item.

- 1 (2) Publishers of directories distributed in Oregon must provide the following information  
2 on a form DEQ provides. For purposes of this rule, directories means telephone directories  
3 that weigh one pound or more for a local jurisdiction:
- 4 (a) Total weight in tons of directories distributed in Oregon;
- 5 (b) Percent by weight of recycled content in the total directories distributed in Oregon;
- 6 (c) Percent of total weight that consists of post-consumer waste;
- 7 (d) If a publisher cannot meet the requirements in ORS 459A.520, the publisher must  
8 provide an explanation;
- 9 (e) Description of the locations and cooperative programs implemented with local  
10 government for the collection and recycling of old directories when new ones are  
11 distributed, including the total weight of old directories collected for recycling in each local  
12 government jurisdiction.
- 13 (3) Each manufacturer of glass food, drink and beverage containers made in Oregon, or  
14 made outside Oregon and sold to packagers located in Oregon, must report the following  
15 information:
- 16 (a) Total tons of new glass food, drink and beverage containers made in Oregon, or made  
17 outside Oregon and sold to packagers located in Oregon, in a calendar year;
- 18 (b) The total tons of post-consumer recycled glass used in manufacturing the containers  
19 made in Oregon, or made outside Oregon and sold to packagers located in Oregon, in a  
20 calendar year;
- 21 (c) Post-consumer recycled glass generated in Oregon and used in "secondary end uses"  
22 must be credited towards the 50 percent minimum percentage requirement. As used in this  
23 section, "post-consumer recycled glass" does not include window glass and other glass not  
24 related to glass container manufacturing. This "credit" must be determined annually as  
25 follows:
- 26 (A) DEQ must determine the tonnage of post-consumer recycled glass generated in Oregon  
27 and used in "secondary end uses" based on reports received under OAR 340-090-0100;
- 28 (B) DEQ must then determine the percentage of post-consumer glass generated in Oregon  
29 that was used for secondary end uses that year. DEQ must use a composition study of solid  
30 waste disposed of in Oregon as the basis for estimating the amount of solid waste which is  
31 post-consumer recycled glass;
- 32 (C) The 50 percent minimum glass recycled content requirement each glass manufacturer  
33 must meet must be reduced by the number of percentage points determined in paragraph  
34 (3)(c)(B) of this rule for the subject year.

1 (d) A glass manufacturer must identify to DEQ all secondary end users of post-consumer  
2 recycled glass generated in Oregon of which it is aware. "Secondary end uses" must include:

3 (A) Use on road surfaces as "glasphalt;"

4 (B) Fiberglass;

5 (C) Abrasives;

6 (D) Glass foam;

7 (E) Glass beads for reflective paint;

8 (F) Construction uses, meeting engineering specifications;

9 (G) Road-base aggregate, meeting engineering specifications;

10 (H) Other uses as approved by DEQ.

11 (e) Upon request from a glass container manufacturer, DEQ may not enforce the  
12 requirement that a minimum percentage of recycled glass be used in the manufacturing of  
13 glass containers if DEQ determines that a glass container manufacturer cannot meet the  
14 minimum percentage requirements because of a lack of available glass cullet from Oregon  
15 recycling collection programs, including producer responsibility organizations, required by  
16 OAR 340-090-0630 to collect container glass, and that meets reasonable specifications the  
17 manufacturer establishes. However, lack of availability of appropriate cullet to fully comply  
18 with the glass recycled content requirement may not exempt a glass container manufacturer  
19 from the requirement to achieve as high a minimum recycled content as possible using  
20 available appropriate cullet. A request for non-enforcement from a glass container  
21 manufacturer must include sufficient detail for DEQ to be able to reasonably make a  
22 determination as to the availability of appropriate cullet, and must:

23 (A) Be made to DEQ in writing by February 28 of a year to apply to use of cullet in the  
24 previous calendar year;

25 (B) Include a copy of the manufacturer's specifications and an explanation of how the  
26 manufacturer determined that sufficient glass cullet meeting the specifications was not  
27 available. If a manufacturer's specifications are more restrictive than accepted national  
28 specifications, the manufacturer must demonstrate to DEQ why such restrictions are  
29 necessary;

30 (C) Include the tonnage of the shortfall of available cullet.

31 **Statutory/Other Authority:** ORS 459A.025, 459.045 & 468.020

32 **Statutes/Other Implemented:** ORS 459A.515, 459A.520 & 459A.550

33 **History:**

34 DEQ 3-2017, f. & cert. ef. 1-19-17

1 DEQ 27-1998, f. & cert. ef. 11-13-98  
2 DEQ 31-1992, f. & cert. ef. 12-18-92 (and corrected 1-5-93)

3 **340-090-0140**

4 **Recyclable Material Economic Test**

5 This rule describes the factors that DEQ must consider in determining if a material can be  
6 collected and sold for recycling at a net cost equal to or less than the cost of collection and  
7 disposal of the same material.

8 (1) DEQ must calculate the cost of collection and sale of a recyclable material by  
9 considering the collector's costs from the time the material is source separated and leaves the  
10 use of the generator until it is first sold or transferred to the person who recycles it. DEQ  
11 must consider all costs and savings associated with collection of a recyclable material in the  
12 calculation.

13 (2) DEQ must consider any measurable savings to the collector resulting from making a  
14 material available for recycling as opposed to disposal the same as income from sale.

15 (3) DEQ must calculate the cost of collection and disposal of material as solid waste by  
16 using the total costs of collection and disposal. Costs must include fees charged, taxes levies  
17 or subsidy to collect and to dispose of solid waste. Costs must also include, but are not  
18 limited, to the costs to comply with applicable statutes, rules permit conditions and  
19 insurance requirements.

20 (4) DEQ may use the amount and value of any source separated material that is collected or  
21 received as part of a recycling requirement of a permit or a city or county franchise  
22 determining whether remaining material meets the definition of recyclable material.

23 **Statutory/Other Authority:** ORS 459A.025, 459.045 & 468.020

24 **Statutes/Other Implemented:** ORS 459A.010

25 **History:**

26 DEQ 3-2017, f. & cert. ef. 1-19-17

27 DEQ 27-1998, f. & cert. ef. 11-13-98

28 DEQ 31-1992, f. & cert. ef. 12-18-92, Renumbered from 340-060-0055

29 DEQ 26-1984, f. & cert. ef. 12-26-84

30 **340-090-0190**

31 **Yard Debris Recycling Charges**

32 (1) The EQC's purpose in adopting this rule governing when a fee may be charged for yard  
33 debris recycling services is to:

34 (a) Ensure that a financial disincentive for recycling is not created for any waste generator;

35 (b) Increase recovery of yard debris and stimulate participation in yard debris recycling  
36 programs;

- 1 (c) Acknowledge the rate considerations due to the extreme variability of volumes  
2 generated;
- 3 (d) Ensure that service provided to multi-family generators residing in dwellings of four or  
4 fewer units is equivalent to service provided to single family residences.
- 5 (2) The purpose as stated in section (1) of this rule is to apply to those recycling programs  
6 required under ORS 459A.005, 459A.010 and 459.250.
- 7 (3) As used in this rule, "residential generator" means any generator of recyclable material  
8 located in single or multi-family dwellings up to and including four units.
- 9 (4) As used in this rule, a "unit of yard debris" is the equivalent of a 32-gallon can, a similar  
10 sized bag, or the standard unit of yard debris service provided, whichever is greater.
- 11 (5) Residential generators of yard debris participating in a regularly scheduled yard debris  
12 collection service in the Metro wasteshed, may be charged a fee for yard debris recycling  
13 service. The cost of collection of at least the equivalent of one unit of yard debris per month  
14 must be incorporated into the base fee charged for solid waste and recycling collection and  
15 disposal. An additional fee may be charged for yard debris service which exceeds the  
16 equivalent of collection of one unit of yard debris per month. Where multi-family complexes  
17 are treated as a single customer, the local government providing the yard debris service must  
18 assure that yard debris service is provided at a level equivalent to service provided single-  
19 family dwellings. Local governments must make this determination and any related  
20 adjustment in service, no later than their next rate review process. In addition to the base fee  
21 charged for solid waste and recycling collection and disposal, which must include the first  
22 unit of yard debris, local governments may charge a fee for:
- 23 (a) Collection of any volumes of yard debris over and above the first unit which is included  
24 in the base fee, where the generator is a solid waste customer;
- 25 (b) Collection of any volumes of yard debris where the generator is not a solid waste  
26 customer;
- 27 (c) Yard debris collected through a depot program or other alternative method including on-  
28 call service.
- 29 (6) The total additional yard debris recycling fee charged to any generator of yard debris for  
30 collection of yard debris must be less than the fee that would have been charged for  
31 collection of that same volume of yard debris as mixed solid waste.
- 32 (7) Yard debris recycling fees in addition to the base fee charged for solid waste collection  
33 and disposal may be charged for the collection of yard debris on-route or at a depot outside  
34 the Metro wasteshed.
- 35 (8) Each city, county or metropolitan service district in the Metro wasteshed must  
36 individually, or jointly through intergovernmental agreement, implement a yard debris  
37 program that at a minimum meets the requirements of OAR 340-090-0030 when the option

1 under OAR 340-090-0040(3)(e) is not chosen or request approval of an alternative program  
2 for providing the opportunity to recycle under OAR 340-090-0080.

3 **Statutory/Other Authority:** ORS 459A.025, 459.045, 459A.005 - 459A.085 & 468.020

4 **Statutes/Other Implemented:** ORS 459.015, 459.250, 459A.005 & 459A.010

5 **History:**

6 DEQ 3-2017, f. & cert. ef. 1-19-17

7 DEQ 27-1998, f. & cert. ef. 11-13-98

8 DEQ 9-1993, f. & cert. ef. 6-16-93

9 DEQ 31-1992, f. & cert. ef. 12-18-92, Renumbered from 340-060-0130

10 DEQ 9-1991, f. & cert. ef. 6-20-91

11 **340-090-0380**

12 **Recycling Rate Calculation for Rigid Plastic Containers**

13 (1) The recycling rate for rigid plastic containers must be calculated as one of the following:

14 (a) Aggregate or specified resin type recycling rate for compliance purposes;

15 (b) Calendar year aggregate recycling rate;

16 (c) Specified-type rate; or

17 (d) Product-associated rate.

18 (2) Recycling rate for compliance purposes;

19 (a) Aggregate recycling rate for compliance purposes;

20 (A) DEQ may determine a recycling rate for rigid plastic containers, in the aggregate, for  
21 compliance purposes by December 31 of any year for which DEQ deems it necessary to  
22 determine such a rate. The aggregate recycling rate for compliance purposes must apply to  
23 the following calendar year and to any subsequent calendar year until DEQ again calculates  
24 an aggregate rigid plastic container recycling rate for compliance purposes;

25 (B) DEQ must base the aggregate recycling rate for compliance purposes in part on the most  
26 recent calendar year recycling rate and in part on other information which reflects or  
27 indicates the level of rigid plastic container recycling. When determining the recycling rate  
28 for compliance purposes for years prior to the calculation of the calendar year recycling rate,  
29 DEQ will use the best available recycling rate information in lieu of a calendar year  
30 recycling rate.

31 (b) Specified resin type recycling rate for compliance purposes:

32 (A) If the aggregate recycling rate in paragraph (2)(a)(A) of this rule is determined to be less  
33 than 25 percent, DEQ must determine a specified resin type recycling rate for compliance  
34 purposes for rigid plastic containers made from each of the following resin types:  
35 polyethylene terephthalate, high density polyethylene, polyvinyl chloride, low density



1 polyethylene, polypropylene, polystyrene, and other. The specified resin type recycling rate  
2 for compliance purposes must apply to the calendar year(s) for which the aggregate  
3 recycling rate in paragraph (2)(a)(A) of this rule was determined;

4 (B) DEQ must base the specified resin type recycling rate for compliance purposes in part  
5 on the most recent calendar year recycling rate and in part on other information which  
6 reflects or indicates the level of rigid plastic container recycling. When determining the  
7 recycling rate for compliance purposes for years prior to the calculation of the calendar year  
8 recycling rate, DEQ will use the best available recycling rate information in lieu of a  
9 calendar year recycling rate.

10 (3) Calendar year aggregate recycling rate:

11 (a) DEQ must calculate the calendar year aggregate recycling rate for rigid plastic containers  
12 and must include all rigid plastic containers including those exempted by OAR 340-090-  
13 0340(2), (4), (5), (6) or (7) from meeting compliance standards;

14 (b) DEQ must determine the calendar year recycling rate for rigid plastic containers in the  
15 aggregate as a percentage by dividing the aggregate numerator by the aggregate  
16 denominator. DEQ must collect or adjust, or both, the numbers in both the numerator and  
17 denominator of this calculation to represent the same calendar year;

18 (c) The elements of the formula to calculate the calendar year aggregate recycling rate for  
19 post-consumer rigid plastic containers in Oregon are:

20 (A) The aggregate numerator, expressed in tons:

21 (i) DEQ must calculate the numerator be calculated as the total weight of post-consumer  
22 rigid plastic containers recycled in Oregon;

23 (ii) In addition to DEQ's census of material recovery rates, DEQ may use as the basis for  
24 determining the total weight of post-consumer rigid plastic containers recycled in Oregon an  
25 annual recycling census of all parties directly involved in brokering, processing, or recycling  
26 post-consumer rigid plastic containers from Oregon. DEQ may provide monthly forms for  
27 record keeping purposes only. Census respondents will be asked to calculate and submit:

28 (I) The total amount of post-consumer rigid plastic received from Oregon sources which is  
29 rigid plastic containers as defined in OAR 340-090-0330;

30 (II) The percentage of (I) that is lost due to removal of contaminated, non-plastic, and non-  
31 recyclable material; and

32 (III) Any other information DEQ may require to accurately determine the recycling  
33 tonnages.

34 (iii) DEQ must design and implement procedures to conduct the census relating to:

35 (I) Developing and maintaining a comprehensive list of handlers and reclaimers;

- 1 (II) Obtaining data from handlers and reclaimers, including the use of monthly and annual  
2 record keeping and reporting forms;
- 3 (III) Reconciling variances in reported data;
- 4 (IV) Maintaining quality control in data collection and analysis; and
- 5 (V) Adjusting data to produce estimates of the amount of plastic from post-consumer rigid  
6 plastic containers by controlling for contamination, including moisture, organic matter and  
7 other non-plastic materials.
- 8 (iv) DEQ must publish a report on the findings of the census, methodologies used and  
9 information regarding potential errors.
- 10 (B) The aggregate denominator, expressed in tons:
- 11 (i) DEQ must calculate the denominator as the sum of the total weight of post-consumer  
12 rigid plastic containers recycled in Oregon (the numerator) plus the total weight of post-  
13 consumer rigid plastic containers disposed of in Oregon. DEQ must calculate the total  
14 weight of post-consumer rigid plastic containers disposed of in Oregon by multiplying the  
15 estimated percent of municipal solid waste which is post-consumer rigid plastic containers  
16 times total tons of municipal solid waste disposed of in Oregon;
- 17 (ii) The total tons of municipal solid waste disposed of in Oregon is derived from  
18 information collected under the provisions of ORS 459A.010 (3)(d)) and 459A.050 (3) and  
19 (4);
- 20 (iii) DEQ must use a composition study of solid waste disposed of in Oregon as the basis for  
21 estimating the percent of disposed solid waste which is post-consumer rigid plastic  
22 containers. Adjustments to a previous composition study may be used as a substitute for a  
23 new composition study.
- 24 (d) DEQ will determine the calendar year aggregate rigid plastic container recycling rate,  
25 when DEQ determines it to be necessary, on a calendar year basis. When DEQ determines a  
26 calendar year aggregate rate, DEQ will publish it in a report that includes a discussion of  
27 potential errors associated with calculation of the total tons of municipal solid waste  
28 disposed of in Oregon, information on the recycling and disposal data collection and  
29 analysis methodologies and margin of error for the percent composition of rigid plastic  
30 containers.
- 31 (4) Specified-type recycling rate. DEQ must determine the recycling rate for a specified type  
32 of rigid plastic container as a percentage by dividing the specified type numerator by the  
33 specified type denominator. DEQ must collect or adjust, or both, the numbers in both the  
34 numerator and denominator of this calculation to represent the same calendar year:
- 35 (a) The elements of the formula to calculate the specified type recycling rate for rigid plastic  
36 containers in Oregon are:

1 (A) DEQ must calculate the specified type of post-consumer rigid plastic container  
2 numerator as the total of the specific type of post-consumer rigid plastic containers recycled  
3 in Oregon, expressed in tons;

4 (B) The specified type of post-consumer rigid plastic container denominator, expressed in  
5 tons:

6 (i) DEQ must calculate the denominator by one of the following methods:

7 (I) As the sum of the weight of the specified type of post-consumer rigid plastic containers  
8 recycled in Oregon plus the total weight of the specified type of rigid plastic containers  
9 disposed of in Oregon; or

10 (II) The total weight of the specified type of post-consumer rigid plastic containers sold in  
11 Oregon.

12 (ii) If DEQ uses the weight of the specified type of post-consumer rigid plastic containers  
13 disposed of to calculate the denominator, DEQ must use a composition study of solid waste  
14 disposed of in Oregon as the basis for determining the weight disposed of.

15 (b) Any person calculating the recycling rate of a specified type of post-consumer rigid  
16 plastic container may rely upon disposal or recycling data DEQ generates. Persons using  
17 other data to calculate a recycling rate must be able to document that such data were  
18 generated by a methodology acceptable to DEQ and are verifiable;

19 (c) Adjustment to data collected by the recycling census and composition study identified in  
20 paragraphs (3)(c)(A)(ii) and (3)(c)(B)(ii) and (iii) of this rule respectively must be made  
21 only by use of a methodology DEQ accepts;

22 (d) DEQ may use data collected on a national basis to determine the post-consumer rigid  
23 plastic container recycling rate in Oregon if it can be shown how these data are either typical  
24 of or can be adjusted to accurately represent conditions in Oregon.

25 (5) Product-associated recycling rate. DEQ must calculate the recycling rate for a product-  
26 associated rigid plastic container as a percentage by dividing the product-associated  
27 numerator by the product-associated denominator. DEQ must collect or adjust, or both, the  
28 numbers in both the numerator and denominator of this calculation to represent the same  
29 calendar year. The elements of the formula to calculate the product-associated recycling rate  
30 for rigid plastic containers in Oregon are:

31 (a) DEQ must calculate the numerator as the total weight of product-associated post-  
32 consumer rigid plastic containers recycled in Oregon, expressed in tons;

33 (b) The product-associated post-consumer rigid plastic container denominator, expressed in  
34 tons. The denominator must be the total weight of the product-associated rigid plastic  
35 containers sold in Oregon.

1 (6) A product manufacturer or container manufacturer must rely on DEQ's calculation of the  
2 aggregate recycling rate for compliance purposes for post-consumer rigid plastic containers  
3 to comply with OAR 340-090-0350(1)(b)(A). In cases where DEQ calculates the recycling  
4 rate for specified types of or product-associated post-consumer rigid plastic containers, a  
5 product manufacturer or container manufacturer may rely on DEQ's rate calculation when  
6 claiming that a container or containers comply with OAR 340-090-0350(1)(b)(B) or  
7 (1)(b)(C).

8 (7) In cases where a manufacturer calculates the recycling rate for specified types of or  
9 product-associated post-consumer rigid plastic containers, a product manufacturer may rely  
10 upon disposal or recycling data DEQ generates, where available. Manufacturers using other  
11 data to calculate a recycling rate must be able to document that such data were generated by  
12 a methodology DEQ accepts and are verifiable.

13 (8) Calculation of a recycling rate must include only those outputs from processing rigid  
14 plastic containers which are recycled into new products. When a processing technology  
15 results in a combination of outputs, some of which are recycled into new products and others  
16 of which are fuel products, or energy recovery, the recycling rate may not include any  
17 portion of the output which is a fuel product, is used to produce fuel products, or is  
18 otherwise used for energy recovery.

19 **Statutory/Other Authority:** ORS 459A.025

20 **Statutes/Other Implemented:** ORS 459A.650 - 459A.657

21 **History:**

22 DEQ 3-2017, f. & cert. ef. 1-19-17

23 DEQ 27-1998, f. & cert. ef. 11-13-98

24 DEQ 9-1996, f. & cert. ef. 7-10-96

25 DEQ 26-1994, f. & cert. ef. 11-2-94

26 **340-090-0410**

27 **Responsibilities of a Container Manufacturer**

28 (1)(a) A container manufacturer must be able to document that a rigid plastic container or  
29 containers comply with the requirements of OAR 340-090-0350(1)(a), (1)(b)(A), or  
30 (1)(b)(B);

31 (b) For any calendar year for which DEQ determines that the aggregate recycling rate for  
32 compliance purposes is at least 25 percent, a container manufacturer is not required to keep  
33 the records otherwise required by this rule.

34 (2) A container manufacturer's documentation that a rigid plastic container or containers  
35 comply with the provisions of OAR 340-090-0350(1)(a), (1)(b)(A) or (1)(b)(B) must  
36 include, at a minimum, the following information:

37 (a) Recycled content. For each container that complies with OAR 340-090-0350(1)(a):

38 (A) A description of the container including its resin type;

- 1 (B) Documentation of the recycled content of the type of container including:
- 2 (i) The total weight of plastic used to manufacture that type of rigid plastic container during  
3 the time period when the container was made; and
- 4 (ii) The weight of recycled material used to manufacture that type of rigid plastic container  
5 during the same time period, within a one-year period, as determined by the container  
6 manufacturer.
- 7 (b) Aggregate recycling rate. The aggregate recycling rate for compliance purposes DEQ  
8 establishes serves as the only acceptable documentation that a container manufacturer's  
9 containers comply with OAR 340-090-0350(1)(b)(A);
- 10 (c) Specified-type recycling rate. For containers that comply with the specified-type  
11 recycling rate requirement, OAR 340-090-0350(1)(b)(B):
- 12 (A) A description of the container;
- 13 (B) Identification of the specified type;
- 14 (C) Documentation of the recycling rate for the type of container pursuant to OAR 340-090-  
15 0380(4); and
- 16 (D) Where DEQ has calculated a recycling rate for a specified type of container, the  
17 container manufacturer may rely upon DEQ's rate to show that the container complies with  
18 the rate requirements.
- 19 (3) Container manufacturer's Certificate of Compliance:
- 20 (a) A container manufacturer must make a Certificate of Compliance available to:
- 21 (A) Any product manufacturer who uses containers from that container manufacturer and  
22 makes products in those containers available for sale in Oregon; and
- 23 (B) DEQ, upon request, only if not otherwise available from the product manufacturer.
- 24 (b) A container manufacturer's Certificate of Compliance must contain the following  
25 information:
- 26 (A) The container manufacturer's:
- 27 (i) Name;
- 28 (ii) Address; and
- 29 (iii) Name, title, address and phone number of an official representative.
- 30 (B) A description of the container or containers for which compliance or exemption is  
31 claimed; and

- 1 (C) A description of the container manufacturer's records documenting compliance.
- 2 (c) If, after review of the container manufacturer's Certificate of Compliance, DEQ  
3 determines that the information provided in the Certificate is not adequate to document that  
4 a container or containers comply with OAR 340-090-0350 through 0370, DEQ may:
- 5 (A) Request that the product manufacturer provide all or part of the documentation  
6 described in a Certificate of Compliance, other records, or additional information the  
7 container manufacturer keeps that is the basis for those records and any other information  
8 deemed necessary to determine compliance with the law. Within 15 days of this request, the  
9 product manufacturer must notify DEQ whether it will provide the requested information or  
10 if DEQ must request it directly from the container manufacturer. If the product manufacturer  
11 notifies DEQ it will satisfy the request, the manufacturer must provide the records or other  
12 material requested to DEQ within 45 days of the date of the product manufacturer's  
13 notification;
- 14 (B) If the product manufacturer cannot provide adequate documentation or other information  
15 DEQ requests within the time frame in (A) above, then DEQ may request such information  
16 directly from the container manufacturer.
- 17 (d) A container manufacturer must comply with the following procedure and time schedule  
18 when it provides information DEQ requests:
- 19 (A) The container manufacturer must provide a Certificate of Compliance to DEQ within 60  
20 days of the date of receipt of a DEQ request for the Certificate;
- 21 (B) If DEQ finds the Certificate to be incomplete, DEQ may request the missing materials  
22 from the official company representative. The container manufacturer must provide missing  
23 materials from a Certificate of Compliance to DEQ within 30 days of the date of receipt of a  
24 DEQ request for the Certificate;
- 25 (C) After it has reviewed the Certificate of Compliance, DEQ may request that the container  
26 manufacturer provide all or part of the documentation described in a Certificate of  
27 Compliance, other records, or additional information kept by the container manufacturer that  
28 is the basis for those records and any other information deemed necessary to determine  
29 compliance with the law. The container manufacturer must provide the records or other  
30 material requested to DEQ within 45 days of the date of receipt of a request for the records.
- 31 (4)(a) A container manufacturer may request an extension of the time period to submit  
32 materials DEQ requests. Such a request for extension must be in writing and be received by  
33 DEQ before the due date of DEQ's original request. The request for extension must:
- 34 (A) Provide the container manufacturer's name and address;
- 35 (B) Provide the name, title, address, and phone number of an official company  
36 representative;
- 37 (C) State a specific length for the requested extension, not to exceed 60 days; and

1 (D) Show good reason for the extension.

2 (b) Based upon the information provided in the request for extension, DEQ may grant the  
3 extension, deny the extension, or grant an extension for a lesser period of time.

4 (5) Records that document compliance with the requirements of OAR 340-090-0350 or  
5 exemption under the provisions of OAR 340-090-0340 must be maintained and available for  
6 audit by DEQ for a period of at least three years after the year for which compliance is  
7 documented.

8 (6) DEQ will consider a container manufacturer's failure to provide the following a violation  
9 of these rules:

10 (a) A Certificate of Compliance to a product manufacturer; or

11 (b) A Certificate of Compliance or additional materials to DEQ as requested and within the  
12 schedule set out in this rule.

13 (7) DEQ, at its discretion, may audit the container manufacturer directly to determine  
14 compliance with these rules.

15 **Statutory/Other Authority:** ORS 459A.025 & 468.020

16 **Statutes/Other Implemented:** ORS 459A.655 & 459A.660

17 **History:**

18 DEQ 3-2017, f. & cert. ef. 1-19-17

19 DEQ 9-1996, f. & cert. ef. 7-10-96

20 DEQ 26-1994, f. & cert. ef. 11-2-94

21 **340-090-0430**

22 **Violations**

23 (1) Violations of these rules are punishable as provided in ORS Chapter 459.995 and  
24 pursuant to OAR 340-012-0042 and 0065.

25 (2) DEQ may not enforce the provisions of ORS 459A.650 to 459A.660 during the first full  
26 calendar year after DEQ determines for the first time that the aggregate recycling rate for  
27 compliance purposes is less than 25 percent.

28 (3) DEQ may not enforce the provisions of ORS 459A.650 to 459A.660 until January 1,  
29 1998. After that time DEQ must take enforcement action for violations of ORS 459A.650 to  
30 459A.660 occurring on or after January 1, 1998.

31 **Statutory/Other Authority:** ORS 459A.025 & 468.020

32 **Statutes/Other Implemented:** ORS 459A.660 & Ch. 584 OL 1995

33 **History:**

34 DEQ 3-2017, f. & cert. ef. 1-19-17

35 DEQ 9-1996, f. & cert. ef. 7-10-96

36 DEQ 26-1994, f. & cert. ef. 11-2-94

1 **OAR-340-090-0600**  
2 **Purpose and Applicability**

3 OAR 340-090-0600 to 0810 implement the Plastic Pollution and Recycling Modernization Act,  
4 ORS 459A.860 to 459A.975. These rules also describe Producer Responsibility Organization  
5 obligations, standards and methods for local government compensation, and the recycling  
6 acceptance lists. The rules relate to the requirements of ORS 459A.869, 459A.872, 459A.875,  
7 459A.878, 459A.881, 459A.884, 459A.890, 459A.896, 459A.914, and 459A.926.

8 **Statutory/Other Authority:** ORS 459A.975 and 468.020  
9 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

10 **OAR 340-090-0610**  
11 **Definitions**

12 Unless the context requires otherwise, terms used in OAR 340-090-0600 to 0810 have the  
13 meanings provided by 459A.863.

14 **Statutory/Other Authority:** ORS 459A.975 and 468.020  
15 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

16 **OAR 340-090-0620**  
17 **Effective Date**

18 OAR 340-090-0630 to 0810 and the amendments to OAR 340-090-0005 to 0430 are effective on  
19 July 1, 2025.

20 **Statutory/Other Authority:** ORS 459A.975 and 468.020  
21 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

22 **OAR 340-090-0630**  
23 **Recycling Acceptance Lists**

24 (1) Recycling list definitions. For purposes of the recycling acceptance lists under sections 2 and  
25 3 of this rule, the terms below have the following meanings:

26 (a) “Aerosol” has the same meaning found in 40 CFR 273.9.

27 (b) “Aseptic carton” means a shelf-stable package made for a food or beverage product that is  
28 made mainly of paperboard, but also includes thin-protective layers of polyethylene and  
29 aluminum.

30 (c) “Bottle” or “Jug” means a rigid container with a neck or mouth smaller than the base.

31 (d) “Cap” means a rigid closure for ~~tubs~~-jugs or bottles that has a fastening feature that involves  
32 threads.

33 (e) “HDPE” means high density polyethylene.



- 1 (f) "Lid" means a rigid closure for tubs that has a fastening feature other than threads.
- 2 (g) "Non-metallized gift wrap" means paper gift wrap devoid of non-paper additives like  
3 metallic flakes, glitter, metalized mylar or any similar material.
- 4 (h) "PE" means polyethylene and includes HDPE, low density polyethylene and linear low  
5 density polyethylene.
- 6 (i) "PET" means polyethylene terephthalate.
- 7 (j) "PP" means polypropylene.
- 8 (k) "Pressurized cylinder" means any packaging containing flammable pressurized gas, helium  
9 or carbon dioxide, including, but not limited to, seamless cylinders and tubes, welded cylinders  
10 and insulated cylinders intended to contain helium, carbon dioxide or flammable materials such  
11 as propane, butane or other flammable compressed gases. "Pressurized cylinder" does not  
12 include:
- 13 (A) any cylinder, tube or container intended to deliver a product that is not a compressed gas;
- 14 (B) any cylinder, tube or container that is designed to be refilled and which has an active and  
15 functioning exchange system that normally causes the cylinder, tube or container to be refilled,  
16 reused, or refurbished;
- 17 (C) any cylinder, tube or container that contains pure oxygen or hydrogen;
- 18 (D) fire extinguishers;
- 19 (E) aerosol cans; or
- 20 (F) a storage tank that is permanently fixed in location.
- 21 (l) "Recycle-compatible coating" means a water-soluble barrier that can be used on fiber-based  
22 packaging that does not negatively impact the recyclability of that packaging.
- 23 (m) "Scrap metal" means ferrous and non-ferrous waste metal, metallic material, electrical  
24 wiring and any product that contains at least 50 percent metal by weight and that is capable of  
25 being recycled. Scrap metal includes major appliances that previously contained refrigerants.
- 26 (n) "Tub" means a rigid container that has a neck or mouth similar in size to its base.
- 27 (2) Local Government Recycling Acceptance List. The following material must be collected  
28 pursuant to ORS 459A.005 and ORS 459A.914(1)(a) to provide the opportunity to recycle:
- 29 (a) Corrugated cardboard; uncoated or coated with recycle-compatible coating; including pizza  
30 boxes;

- 1 (b) Paper bags and mailing envelopes, excluding those with a plastic liner or other non-pulping  
2 filler;
- 3 (c) Paperboard boxes and packaging, such as cereal, cracker and medicine boxes, excluding any  
4 flexible packaging included in the boxes, and excluding items used to package goods that are  
5 normally placed in a refrigerator or freezer;
- 6 (d) Polycoated cartons (for example milk cartons), aseptic cartons, and polycoated paper cups;
- 7 (e) Molded pulp packaging, excluding food serviceware;
- 8 (f) Spiral wound containers or composite cans made primarily of paper and steel;
- 9 (g) Tissue paper used for packaging;
- 10 (h) Non-metalized gift wrap;
- 11 (i) All printing and writing paper, including newspaper, newsprint, newspaper inserts,  
12 magazines, catalogs, similar glossy paper, telephone directories, ledger, bond, copy and printer  
13 paper, notebook paper, envelopes, cards, mail, and items made of such paper and bound with  
14 staples, and paperback books, but excluding thermal paper and hardcover books;
- 15 (j) File folders and hanging files;
- 16 (k) Plastic that fits loosely in the generator's provided on-route collection container, excluding  
17 any such item that was used to contain or store motor oil, antifreeze, or other automotive fluids,  
18 pesticides or herbicides, or other hazardous materials (flammable, corrosive, reactive, toxic), as  
19 follows:
- 20 (A) Plastic bottles and jugs that are 6 ounces and larger, including caps if screwed on, made of  
21 the following materials:
- 22 (i) PET (#1) (clear only);
- 23 (ii) HDPE (#2); and
- 24 (iii) PP (#5)
- 25 (B) Plastic tubs that are 6 ounces and larger, including caps if screwed on, made of the following  
26 materials:
- 27 (i) PET (#1);
- 28 (ii) HDPE (#2); and
- 29 (iii) PP (#5)

- 1 (C) Plastic buckets, pails, and storage containers that are 5 gallons or less, including lids if  
2 snapped on, made of the following materials:
- 3 (i) HDPE (#2); and  
4 (ii) PP (#5)
- 5 (D) Nursery (plant) packaging, such as pots and trays, made of the following materials:
- 6 (i) HDPE (#2); and  
7 (ii) PP
- 8 (E) Clear plastic cups made of the following materials:
- 9 (i) PET (#1); and  
10 (ii) PP (#5)
- 11 (l) Aluminum food, pet food, and beverage cans;  
12 (m) Steel and bi-metal cans, including empty or dry metal paint cans;  
13 (n) Scrap metal weighing less than 10 pounds and smaller than 18" in length, excluding sharp  
14 items (for example knives) and bicycle chains, electrical wiring and other wires, and other  
15 similar items likely to cause tangling;
- 16 (o) **Other scrap metal**;  
17 (p) Motor oil; and  
18 (q) Glass bottles and jars, but only from non-residential sources and only in the Metro wasteshed  
19 (this requirement is in addition to the requirements for glass recycling under section 3 of this  
20 rule).
- 21 (3) Producer Responsibility Organization Recycling Acceptance List. The following materials  
22 are designated as covered products of which a producer responsibility organization must provide  
23 for the collection through recycling depot or mobile events as provided in ORS 459A.896(1):
- 24 (a) Steel and aluminum aerosol cans;  
25 (b) Aluminum foil and products made of pressed aluminum foil;  
26 (c) Shredded paper;  
27 (d) Polyethylene film and packaging made of polyethylene film without layers of other material;  
28 (e) Plastic buckets, pails and storage containers made of HDPE (#2) or PP (#5) and the lids of  
29 such items, but excluding such items if used to contain or store motor oil, antifreeze, or other

1 automotive fluids, pesticides or herbicides, or other hazardous materials (flammable, corrosive,  
2 reactive, toxic);

3 (f) Glass bottles and jars;

4 (g) Block white expanded polystyrene;

5 (h) PE and PP lids and caps;

6 (i) HDPE package handles (for example 6-pack handles); and

7 (j) Pressurized cylinders.

8 (4) The materials listed in Section 2 of this rule must be collected as follows:

9 (a) (A) For all wastesheds, tThe materials listed in subsections (a), (b), (c), (e), (g), (h), (i), (j),  
10 (k)(A) through (C), (l) through (p) must be collected at depots as part of the opportunity to  
11 recycle pursuant to ORS 459A.005 and 459A.007;

12 (B) For the Metro wasteshed, in addition to the materials listed in subsection (a)(A) above, the  
13 materials listed in subsection (d), (f), (k)(D), and (k)(F) may also be collected at depots subject to  
14 the limitations of (d)(i) through (iii) below.

15 (b) (A) For all wastesheds, tThe materials listed in subsections (a), (b), (c), (e), (g), (h), (i), (j),  
16 (k)(A) through (C), (l) through (n) are also designated for recycling collection from collection  
17 service customers as described in ORS 459A.005(1)(a)(A) or 459A.005(1)(a)(B) and ORS  
18 459A.863(25)(a) to (e)(d);

19 (B) For the Metro wasteshed, in addition to the materials listed in subsection (b)(A) above, the  
20 materials listed in subsection (d), (f), (k)(D), and (k)(F) may also be collected at depots subject to  
21 the limitations of (d)(i) through (iii) below.

22 (c) The materials listed in subsection (q) must be collected from non-residential collection  
23 service customers as part of routine collection service described in ORS 459A.005(1)(a)(A)- and  
24 ORS 459A.863(25)(b), but only in the Metro wasteshed; and

25 (d) (A) For all wastesheds, tThe materials listed in subsections (a), (b), (c), (e), (g), (h), (i), (j),  
26 (k)(A) through (C), (l), (m), and through (n) are suitable for commingled collection and are  
27 included in the Uniform Statewide Collection List.

28 (B) For the Metro wasteshed, in addition to the materials listed in subsection (d)(A) above, the  
29 materials listed in subsection (d), (f), (k)(D), and (k)(F) may be collected as part of a  
30 commingled recycling program pursuant to ORS 459A.914(6), as follows:

31 (i) The materials listed in (d)(B) may be collected as a part of a trial or research program  
32 pursuant to ORS 459A.914(a). The goal of the trial or research will be to determine whether the  
33 materials meet the requirements of ORS 459A.914(3) in order to add them to the Uniform  
34 Statewide Collection List. In six month intervals during the trial program, the DEQ will gather

1 data from the program relevant to ORA 459A.914(3), and report the data to the producer  
2 responsibility organizations and the Oregon Recycling System Advisory Council for their  
3 review. At the end of the trial program, the producer responsibility organizations and the Oregon  
4 Recycling System Advisory Council will advise the Environmental Quality Commission of their  
5 analysis, and the commission will determine if the materials are appropriate for the Uniform  
6 Statewide Collection List. The commission will make its determination by July 1, 2027;

7 (ii) The materials listed in (d)(B) may be collected in the commingled recycling program  
8 beginning on or before July 1, 2025, and the trial or research program will be complete by  
9 December 31, 2026. The materials may continue to be collected until December 31, 2027,  
10 unless the commission directs otherwise; and

11 (iii) The trial or research program is limited to the Metro wasteshed.

12 (e) In accordance with this subsection, a local government may submit a request for additional  
13 time to meet the obligation to collect materials on the Uniform Statewide Collection List  
14 pursuant to section 2 of this rule to DEQ for approval, if the local government's ability to  
15 successfully collect the materials is dependent on the local government receiving funding for  
16 trucks, containers, or a reload facility requested from a producer responsibility organization  
17 through the 2023 needs assessment, pursuant to ORS 459A.890(8), and the local government has  
18 not yet received the funding. The local government must provide any information requested by  
19 DEQ to review the local government's request and describe to the satisfaction of DEQ the local  
20 government's process and timeline for complying with the obligation to collect all materials on  
21 the Uniform Statewide Collection List pursuant to section 2 of this rule. DEQ may approve the  
22 request, with or without conditions, if it determines that the local government's ability to  
23 successfully collect the materials that are the subject of the request is dependent on the local  
24 government receiving funding for trucks, containers, or a reload facility requested from the  
25 producer responsibility organization through the 2023 needs assessment, pursuant to ORS  
26 459A.890(8), and the local government has not yet received the funding.

27 [Note: ORS 459A.914(4)(b) authorizes additions to the Uniform Statewide Collection List  
28 through methods other than rulemaking. Materials not on the Uniform Statewide Collection List  
29 shall not be collected commingled with other materials per ORS 459A.914(5). The Uniform  
30 Statewide Collection List consists of materials designated in (d) above plus additional materials  
31 approved by DEQ pursuant to ORS 459A.914(4)(b). For the full list of materials on the Uniform  
32 Statewide Collection List consult Oregon Department of Environmental Quality's Materials  
33 Management Program.]

34 **Statutory/Other Authority:** ORS 459A.975 and 468.020

35 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

36 **OAR 340-090-0640**

37 **Convenience Standards**

38 (1) For purposes of ORS 495A.896(1) and this rule:

39 (a) An existing recycling depot or drop off center is any place located in Oregon that accepts any  
40 recyclable material from the general public at the time the producer responsibility organization

1 submits its most recent Program Plan or plan amendment, and which also meets at least one of  
2 the following five criteria:

3 (A) The recycling depot or drop off center is used by a local government to satisfy the  
4 requirement in ORS 459A.005(1)(a)(A) to provide a place for collecting source separated  
5 recyclable material, including the materials on the uniform statewide collection list established  
6 under ORS 459A.914 designated for collection at a recycling depot, located either at a disposal  
7 site or at another location more convenient to the population being served.

8 (B) The recycling depot or drop off center is used by a local government to satisfy the optional  
9 opportunity to recycle program element described in ORS 459A.007(1)(g).

10 (C) The recycling depot or drop off center is operated by or at the direction of a Tribal  
11 government.

12 (D) The recycling depot or drop off center is located at a site that operates under a valid solid  
13 waste permit issued by the DEQ.

14 (E) The recycling depot or drop off center is operated by or at the direction of a local government  
15 or a local government's service provider, as defined in ORS 459A.863(12).

16 (b) For purpose of satisfying obligations under ORS 459A.896, it is possible for a producer  
17 responsibility organization to contract with an existing recycling depot or drop off center to  
18 provide for collection of a covered product or products if the recycling depot or drop off center  
19 meets all the following conditions:

20 (A) The operator of the existing recycling depot or drop off center is willing to contract to  
21 provide collection service on behalf of the producer responsibility organization.

22 (B) The operator of the existing recycling depot or drop off center is able to meet all  
23 performance standards and other requirements on the producer responsibility organization and to  
24 provide collection service on behalf of the producer responsibility organization.

25 (C) The annual cost to the producer responsibility organization to contract for collection and  
26 recycling of a material or set of materials with the recycling depot or drop off center **does not**  
27 **exceed 1150** percent of the cost the producer responsibility organization would otherwise pay to  
28 provide a collection point for that material or set of materials.

29 (D) The operator of the existing recycling depot or drop off center demonstrates to the producer  
30 responsibility organization that the cost of reimbursement it requests are reasonable and only  
31 pays for additional costs associated with collection of the additional materials. An existing  
32 recycling depot or drop off center and a producer responsibility organization will resolve any  
33 disputes concerning the reasonableness of reimbursement costs through the dispute resolution  
34 process described in ORS 459A.875(2)(e).

35 (c) An existing recycling depot or drop off center that contracts with a producer responsibility  
36 organization pursuant to ORS 459A.896(1) must meet all relevant requirements of the producer

1 responsibility organization, including performance standards as described in OAR 340-090-0660  
2 and requirements for responsible end market disposition (ORS 459A.896(2)).

3 (d) For purposes of paragraphs (a)(A) and (B) of this section, if a local government has more  
4 than the minimum number of depots or drop off centers required by ORS 459A.005(1)(a)(A) or  
5 459.007(1)(g) the local government must inform a producer responsibility organization, upon  
6 request, which depots or drop off centers are being used to meet the requirements of ORS  
7 459A.005(1)(a)(A) or 459.007(1)(g). If a local government fails to provide the information  
8 within 90 days of a request DEQ may, after consulting with the local government and producer  
9 responsibility organization, determine which depots or drop off centers are being used to meet  
10 the requirements of ORS 459A.005(1)(a)(A) or 459.007(1)(g).

11 (e) If a recycling depot or drop off center that does not meet the requirements of subsection (a) of  
12 this section subsequently comes into compliance with those requirements a producer  
13 responsibility organization must contract with the recycling depot or drop off center within 12  
14 months of the recycling depot or drop off center meeting the requirements of subsection (a) of  
15 this section, provided that the recycling depot or drop off center also meets the other  
16 requirements of this section. If the addition of the recycling depot or drop of center results in the  
17 producer responsibility organization exceeding the minimum number of collection points  
18 required by subsections (2)(d) to (f) of this rule the producer responsibility organization may  
19 discontinue service at another collection point in the same community, subject to the  
20 requirements of section 4 of this rule.

21 (f) If a producer responsibility organization determines that it is not possible to contract with an  
22 existing recycling depot or drop off center pursuant to subsection (2)(a) of this rule, due to the  
23 exceedance of the price premium cap in paragraph (1)(b)(C) of this rule, DEQ may request  
24 financial information from both the producer responsibility organization and the existing facility  
25 to verify that the cap would be exceeded. A producer responsibility organization must provide  
26 the information requested by DEQ and may not prohibit, by nondisclosure agreement or other  
27 mechanism, the sharing of the requested information by the existing facility.

28 (A) Information submitted by both the producer responsibility organization and the existing  
29 facility will be held confidential as set forth at ORS 459A.962 and OAR 340-090-0710. The  
30 DEQ's decision will follow the dispute resolution process as set forth at ORS 459A.875(2)(e).

31 (2) Minimum number of collection points. For purposes of this section a collection point is a  
32 location that accepts from the public one or more materials on the Producer Responsibility  
33 Organization Recycling Acceptance List acceptance list pursuant to OAR 340-090-0630(3) and  
34 which meets all performance standards as described in OAR 340-090-0660. A producer  
35 responsibility organization must provide the following minimum number of collection points:

36 (a) A producer responsibility organization must provide for collection and recycling of all  
37 covered products on the producer responsibility organization acceptance list, pursuant to OAR  
38 340-090-0630(3), at any existing recycling depot or drop off center where it is possible, as  
39 provided by subsection 1(b) of this rule.

- 1 (b) A producer responsibility organization must meet the base convenience standard described in  
2 paragraphs (d)(A), (d)(B) and (e)(A) and (B) of this section for every material described in the  
3 producer responsibility organization recycling acceptance list, pursuant to OAR 340-090-  
4 0630(3), except as provided by subsection (c) of this section.
- 5 (c) A producer responsibility organization must meet the enhanced convenience standard  
6 described in paragraphs (d)(A), (d)(C) and (e)(C) and (D) of this section for the materials  
7 identified in OAR 340-090-0630(3)(d) – (f), (h) and (i).
- 8 (d) Collection points in counties.
- 9 (A) A producer responsibility organization must provide at least one collection point in every  
10 county for every covered product on the producer responsibility organization acceptance lists.
- 11 (B) For each material subject to the base convenience standard in subsection (b) of this section, a  
12 producer responsibility organization must provide one additional collection point as follows:
- 13 (i) For Clackamas, Multnomah and Washington counties, one additional collection point for  
14 every 60,000 residents of that county.
- 15 (ii) For all other counties, one additional collection point for every 40,000 residents of that  
16 county.
- 17 (C) For each material designated for enhanced convenience pursuant to subsection (c) of this  
18 section, a producer responsibility organization must provide one additional collection point as  
19 follows:
- 20 (i) For Clackamas, Multnomah and Washington counties, one additional collection point for  
21 every 45,000 residents of each county.
- 22 (ii) For all other counties, one additional collection point for every 30,000 residents of that  
23 county.
- 24 (D) Where the required number of collection points for a county exceeds the sum of the  
25 collection points required by subsections (a) and (e) of this section, the additional collection  
26 points shall be located in unincorporated areas of the county. The producer responsibility  
27 organization shall consult with the county government and consider areas recommended by the  
28 county for placement of such collection points.
- 29 (e) Collection points in cities.
- 30 (A) For every material subject to the base convenience standard in subsection (b) of this section,  
31 a producer responsibility organization must provide for at least one collection point:
- 32 (i) In each city in Clackamas, Multnomah and Washington counties with a population of 14,000  
33 or more residents; and
- 34 (ii) In all other cities with a population of 7,000 or more residents.



- 1 (B) For every material subject to the base convenience standard in subsection (b) of this section,  
2 a producer responsibility organization must provide additional collection points in a city as  
3 follows:
- 4 (i) For cities in Clackamas, Multnomah and Washington counties, one additional collection point  
5 for every 75,000 residents of the city; and
- 6 (ii) In all other cities one additional collection point for every 35,000 residents of the city.
- 7 (C) For each material designated for enhanced convenience, pursuant to subsection (c) of this  
8 section, a producer responsibility organization must provide at least one collection point as  
9 follows:
- 10 (i) In cities in Clackamas, Multnomah and Washington counties with a population of 8,000 or  
11 more residents; and
- 12 (ii) In all other cities with a population of 4,000 or more residents.
- 13 (D) A producer responsibility organization must provide one additional collection point in a city  
14 for every covered product designated for enhanced convenience:
- 15 (i) For cities in Clackamas, Multnomah and Washington counties, one collection point for every  
16 50,000 residents of the city; and
- 17 (ii) For all other cities one collection point for every 30,000 residents of the city.
- 18 (E) If more than one collection point for any material is required within a single city, the  
19 producer responsibility organization shall locate the collection points within the city so that no  
20 major sections of the city lack convenient service relative to other areas of the city. A producer  
21 responsibility organization must coordinate with DEQ to meet the requirements of this  
22 paragraph.
- 23 (F) If more than one collection point for any material is provided within a single city, at least 50  
24 percent of all collection points for each material used to satisfy subsection (2)(e) of this rule shall  
25 be located in such a way as to be convenient to users of transit service, if the city is served by  
26 transit service. The producer responsibility organization shall describe in its program plan how  
27 this requirement is satisfied.
- 28 (f) A producer responsibility organization must provide sufficient collection points for all  
29 materials on the producer responsibility organization acceptance list such that 95 percent of all  
30 residents of Oregon live within 15 miles of a collection point.
- 31 (g) A producer responsibility organization may use the same collection points to meet the  
32 requirements of subsections (a), (d), (e) and (f).
- 33 (h) A producer responsibility organization must describe in its program plan how it will provide  
34 enhanced access to recycling of materials on the producer responsibility organization acceptance  
35 list for populations that may otherwise find it difficult to participate in service at collection

- 1 points (for example valet service for vehicle users in wheelchairs and partnering with service  
2 organizations that work with homebound populations).
- 3 (3) Days and hours of operation. Collection points described in Section 2 of this rule must be  
4 available to the public as follows:
- 5 (a) If the collection point is co-located with a “parent” facility (for example a retailer if return-to-  
6 retail, or an existing depot) the same hours of operation as that parent facility is open.
- 7 (b) For all other collection points (stand-alone sites) 4 days per week (with exceptions provided  
8 for on legal holidays), at least one of which must be Saturday or Sunday and at least 8 hours each  
9 of those 4 days.
- 10 (4) Notification of changes and continuity of services.
- 11 (a) Except as provided by subsection (c) of this section, a producer responsibility organization  
12 must provide DEQ and a collection point operator at least three months’ notice in writing if a  
13 producer responsibility organization closes a collection point. The producer responsibility  
14 organization must also provide a concurrent notice to users of the collection point using  
15 prominently placed signage at the collection point location and on a website used by the  
16 producer responsibility organization for promotion with the public. Collection point closure  
17 notices must include the following information:
- 18 (A) Date of service discontinuation; and
- 19 (B) Alternative collection point location(s) or service information.
- 20 (b) Except as provided by subsection (c) of this section, if a collection point that a producer  
21 responsibility organization is using to satisfy the requirements of subsection (2)(a) of this rule no  
22 longer meets any of the conditions of subsection (1)(b) of this rule, the producer responsibility  
23 organization must not discontinue service until one of the following occurs:
- 24 (A) The contract with the site operator expires;
- 25 (B) The program plan period ends; or
- 26 (C) The parties reach mutual agreement.
- 27 (c) A producer responsibility organization may close a collection point for or discontinue  
28 acceptance of pressurized cylinders or aerosol cans without three months’ notice in writing if:
- 29 (A) the collection point operator is an entity other than the producer responsibility organization;
- 30 (B) the collection point is not in compliance with contractual terms related to environmental  
31 protection or human health;
- 32 (C) The producer responsibility organization provides prior notice of its intention to discontinue  
33 the collection point; and

1 (D) The collection point does not promptly correct the issue.  
2 (d) If a producer responsibility organization discontinues service pursuant to subsection (c) it  
3 shall notify DEQ as soon as possible and provide notice to users of the collection site.

4 (5) If a covered product on a producer responsibility organization's recycling acceptance list  
5 pursuant to administrative rule is subsequently added to the uniform statewide collection list  
6 pursuant to ORS 459A.914(4)(b), a producer responsibility organization must meet obligations  
7 for collection as follows:

8 (a) only at existing recycling depots or drop off center, as provided by subsection (2)(a) of this  
9 rule; and

10 (b) only if the depot or drop off center is continuing to collect the materials as source separated.

11 (6) Alternative compliance.

12 (a) A producer responsibility organization may propose an alternative to the requirements of  
13 section 2 of this rule in writing in the producer responsibility organization program plan or an  
14 amendment to the plan for approval by the department. If the alternative results in a city or  
15 county receiving fewer collection points than required by section 2 of this rule, the producer  
16 responsibility organization must demonstrate that it has consulted with the city or county  
17 regarding the proposed alternative approach.

18 (b) If a producer responsibility organization proposes to use collection events as an alternative to  
19 the requirements of section 2 of this rule, such events must be predictable (fixed set of locations  
20 on a regular schedule and promoted far in advance); and widely advertised.

21 **Statutory/Other Authority:** ORS 459A.975 and 468.020

22 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

23 **OAR 340-090-0650**

24 **Performance Standards**

25 (1) Performance standards generally. In providing for the collection and responsible recycling of  
26 covered products pursuant to ORS 459A.896(1), a producer responsibility organization must  
27 ensure that the following performance standards are met:

28 (a) Methods. A producer responsibility organization's program plan must provide for how the  
29 producer responsibility organization will achieve and maintain collection targets provided by  
30 OAR 340-090-0640, convenience standards provided by OAR 340-090-0650, and performance  
31 standards. For performance standards, the program plan shall include a description of how the  
32 producer responsibility organization will monitor sites and services on a regular basis to ensure  
33 compliance with, and reporting to DEQ in a timely manner of any deviations from the program  
34 plan and performance standards under this rule.

35 (b) Free to the public. No fee shall be charged to users of any depot or drop off services,  
36 collection events or collection services as provided under ORS 459A.896(1)(a) through (c). If

- 1 depot collection is provided at a location that normally charges users to access the site (such as a  
2 gate fee at a solid waste transfer station), the producer responsibility organization must arrange  
3 to waive the fee for the delivery of any covered products on the producer responsibility  
4 organization recycling acceptance list.
- 5 (c) Promotion. A producer responsibility organization must promote the availability of collection  
6 opportunities, how to properly prepare materials for recycling and how to utilize collection  
7 opportunities. Such promotion must use methods and materials that are clear, culturally relevant,  
8 accessible, and understandable to diverse audiences. A producer responsibility organization must  
9 make available to the public through a website that is maintained and available in multiple  
10 languages the location and hours of operation for all collection points, and information on how to  
11 properly prepare materials for collection.
- 12 (d) Accessibility. All collection services shall be reasonably accessible for users of diverse  
13 abilities, and safe to interact with for users and service operators. Sites that are unstaffed during  
14 some or all hours of operation shall provide a prominently featured hotline number and protocols  
15 for quickly responding to concerns regarding site safety, environmental impacts, or accessibility.
- 16 (e) Contamination prevention and management. Collection services shall be offered and operated  
17 in ways that minimize acceptance of contamination, and that minimize the presence of  
18 contamination in outbound materials. A producer responsibility organization's program plan  
19 must include protocols for managing materials that are not on the producer responsibility  
20 organization recycling acceptance list but that are delivered to collection points or events. Such  
21 protocols must include screening and then accepting and managing the material appropriately,  
22 rejecting the material or both, and must also include providing service users with information on  
23 proper recycling or disposal options.
- 24 (f) Quality assurance. Collection services must be operated in a manner that maintains the quality  
25 and marketability of collected materials, including collection of materials indoors or under cover  
26 when appropriate.
- 27 (g) Litter mitigation. Collection services and associated handling of collected material must be  
28 operated in a manner to prevent litter and any other pollution to air or water.
- 29 (h) Self-reporting. A producer responsibility organization must report to DEQ, within 2 business  
30 days, any incidents that substantially impact the availability or quality of service, or which  
31 require the presence of emergency responders (for example police, medical or fire).
- 32 (2) Additional performance standards for collection events. In addition to the performance  
33 standards in section 1 of this rule, a producer responsibility organization must meet the following  
34 performance standards for collection events:
- 35 (a) Public education and outreach. A producer responsibility organization shall coordinate with  
36 relevant local governments and service providers regarding public outreach and promotion in  
37 advance of any collection event.

1 (b) Staffing and resourcing. A producer responsibility organization shall include in its program  
2 plan detailed policies and processes to ensure adequate staffing, managing traffic flow, ensuring  
3 safety, and contingency plans for responding to larger-than-expected turnout.

4 (3) Material specific performance standards. A producer responsibility organization must meet  
5 the following additional performance standards when managing the materials listed in this  
6 section:

7 (a) Block white Expanded Polystyrene (EPS):

8 (A) Collection and transportation of EPS must be conducted in a manner designed to reduce life  
9 cycle environmental impacts. Collected EPS shall be densified (compressed into a brick-like  
10 form, with most air removed), as described in paragraph B of this subsection, before transporting  
11 EPS a distance greater than 75 miles. An alternative threshold distance may be used if approved  
12 by DEQ in a producer responsibility organization's program plan.

13 (B) EPS shall be densified using technologies described in the producer responsibility  
14 organization's program plan after consideration of impacts on yield, transport quantities  
15 (density), and worker safety and exposure. Densification shall occur in a manner that minimizes  
16 worker exposure to air toxics. A producer responsibility organization may only use thermal  
17 densification technology if approved to do so by DEQ in its program plan or a plan amendment.  
18 A producer responsibility organization must include an assessment of potential impacts to  
19 workers and methods that will be followed to minimize such impacts.

20 (b) Aerosol cans and pressurized cylinders:

21 (A) A producer responsibility organization may not accept aerosol cans or pressurized cylinders  
22 from any non-residential generator unless that non-residential generator affirms in writing its  
23 status as a very small quantity generator pursuant to 40 CFR 260.10 and 40 CFR part 262. Any  
24 collection point that accepts aerosol cans or pressurized cylinders must be staffed and have  
25 acceptance protocols in place to ensure that it does not accept any non-exempt hazardous waste.

26 (B) A producer responsibility organization shall ensure that all aerosol cans collected pursuant to  
27 ORS 459A.896(1) are managed according to universal waste standards pursuant to 40 CFR part  
28 273. Aerosol cans shall be punctured and their contents safely removed, characterized, and  
29 managed in accordance with applicable hazardous waste standards where appropriate, prior to  
30 sending the empty container to be recycled. The handler of the containers shall meet the  
31 standards of 40 CFR 273.13(e)(4) which include but are not limited to following a written  
32 procedure for puncturing cans, conducting a hazardous waste determination of all contents,  
33 puncturing the cans with a device designed for that purpose, handling waste from the cans safely  
34 and recycling the metal.

35 (C) A producer responsibility organization shall ensure that any pressurized cylinders collected  
36 pursuant to ORS 459A.896(1) are managed in accordance with the following standard:  
37 pressurized cylinders shall be processed by a regulated hazardous waste treatment, storage, and  
38 disposal facility, which shall remove and manage contents according to hazardous waste

1 standards, and then send the containers to a metal recycler or prepare them for reuse. This  
2 paragraph does not require the manifesting of pressurized cylinders.

3 **Statutory/Other Authority:** ORS 459A.975 and 468.020

4 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

5 **OAR 340-093-0660**

6 **Collection Targets**

7 (1) Collection Targets Generally. A collection target or collection rate is a percentage of total  
8 amount of a material generated and is calculated using weight.

9 (a) For each material on the producer responsibility recycling acceptance list pursuant to OAR  
10 340-090-0630(3), for which collection targets are established, a producer responsibility  
11 organization must report, in the annual report required under ORS 459A.887, the weight of  
12 collected materials, an estimate of the weight of materials generated, and the ratio of the two,  
13 where the weight of collected materials is the numerator and the estimate of weight of materials  
14 generated is the denominator. For materials without collection targets only the weight of  
15 collected materials must be reported.

16 (b) A collection rate will be calculated by dividing the weight of materials collected (numerator)  
17 by the weight of the materials generated (denominator).

18 (c) A producer responsibility organization must document all data sources, references,  
19 assumptions and calculations used in calculating collection rates. When estimating the weight of  
20 materials generated, a producer responsibility organization must consider data provided by DEQ,  
21 its own collection records, and other weight-based data, in addition to sales data reported to it by  
22 its members.

23 (d) The calculation of the numerator in the collection rate may only include the weight of  
24 materials targeted for collection and recycling, and may not include the weight of contamination.

25 (e) Unless otherwise specified in this rule, the numerator in a producer responsibility  
26 organization's collection rate calculation may only include the weight of materials collected by  
27 the producer responsibility organization (including any party operating under contract to or at the  
28 direction of the producer responsibility organization).

29 (f) As part of its annual report, a producer responsibility organization must demonstrate that it  
30 has met the collection target for each material, and if not, the reasons for not meeting the  
31 collection target and the specific actions the producer responsibility organization proposes to  
32 implement to achieve the collection target.

33 (2) Materials-Specific Collection Targets. Materials shall have the following collection targets:

34 (a) Glass. The collection target for glass will be 45 percent and will be calculated as follows:

1 (A) The numerator is all glass packaging collected at producer responsibility organization depots  
2 or other collections as provided under ORS 459A.896(1) and all glass collected by local  
3 governments or their designated service providers (for example on-route collection).

4 (B) The denominator is all glass packaging (bottles and jars) generated in Oregon, less bottle bill  
5 collections.

6 (b) Polyethylene film. The collection target for polyethylene film is as follows:

7 (A) 25 percent in 2028,

8 (B) 27 percent in 2029,

9 (C) 29 percent in 2030,

10 (D) 31 percent in 2031,

11 (E) 33 percent in 2032,

12 (F) 35 percent in 2033,

13 (G) 37.5 percent in 2034,

14 (H) 40 percent in 2035,

15 (I) 42 percent in 2036,

16 (J) 44 percent in 2037,

17 (K) 46 percent in 2038,

18 (L) 48 percent in 2039, and

19 (M) 50 percent by 2040 and in subsequent years.

20 (c) Other materials. A producer responsibility organization must propose collection targets for  
21 other materials each time it submits a program plan for approval. Other materials that a producer  
22 responsibility organization must propose collection targets for include those identified in OAR  
23 340-090-0630(3)(a), (b), (e), and (g) – (j). In program plans after the first plan, the producer  
24 responsibility organization must propose an increase in the collection target for these select other  
25 materials or provide a justification and explanation for why it is not proposing an increase. A  
26 producer responsibility organization may propose one combined collection target and report one  
27 combined collection rate for materials identified in OAR 340-090-0630(3)(h) and (i).

28 **Statutory/Other Authority:** ORS 459A.975 and 468.020

29 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

30 **OAR 340-090-0670**

31 **Responsible End Markets**

1 (1) Definition of end market. For purposes of ORS 459A.869(7) and ORS 459A.896(2)(a), end  
2 markets are defined by material as follows:

3 (a) For glass the end market is the entity that initially converts first uses the glass into a recycled  
4 feedstock. in lieu of a virgin material downstream of the beneficiation plant, if any, where bottles  
5 are crushed, for example a bottle manufacturer, fiberglass manufacturer or pozzolan (used to  
6 make cement and concrete) producer.

7 (b) For metal the end market is the entity that initially converts the metal into a recycled  
8 feedstock. smelts the recycled material and produces ingots, sheet, coil, or other materials that  
9 are subsequently refabricated into packaging or product.

10 (c) For paper the end market is the entity that initially converts the paper into a recycled  
11 feedstock. re-pulps the recycled material either into a pulp product that is sold to paper  
12 manufacturers or used to produce paper or paperboard products. If paper is recycled in a manner  
13 that does not involve repulping (for example, used to produce a wallboard product), the end  
14 market is the entity that uses the waste paper to produce a product that is sold without further  
15 transformation or manufacturing.

16 (d) For plastic the end market is the entity that initially converts the plastic into a recycled  
17 feedstock. For any plastic other than PET, Polypropylene, or HDPE bottles, as well as any plastic  
18 feedstock used, except for plastic that is recycled to produce packaging for food or beverage  
19 applications or for production of children's products, the end market is the entity that places the  
20 recycled feedstock either last handles flake or pellet containing recycled plastic prior to sale or  
21 transfer to another person that creates a new product either by placing it into a mold or through  
22 extrusion or thermoforming for the manufacture of such packaging or product. .

23 (e) For purposes of (1)(a) through (d) above, recycled feedstock is defined as a material collected  
24 as recycling that is converted by some process into the raw material used to manufacture and  
25 produce finished goods that contain recycled content. A recycling material becomes a recycled  
26 feedstock at the point when it is initially converted. plastic that is recycled to produce packaging  
27 for food and beverage applications or for production of children's products, the end market is the  
28 entity that places it into a mold for the manufacturer of such packaging or product.

29 (2) Standard for responsible end markets.

30 (a) For an end market to be a responsible end market, the end market and all entities in the  
31 supply chain leading to the end market must meet the following standards:

32 (A) Compliant. Meaning the entity follows its own local, state, and national laws (including  
33 relevant environmental, labor, and public health laws) and treaty obligations, and is registered  
34 and permitted as required by local, state, and national authorities.

35 (B) Transparent. Meaning the entity is willing to be named and audited, provides chain of  
36 custody documentation tracking materials (originating in Oregon) to disposition, maintains  
37 record keeping relevant to chain of custody and material disposition in accordance with ORS



1 459A.962(7), and promptly documents within the chain of custody any penalties, violations or  
2 regulatory orders received.

3 (C) Environmentally-sound. Meaning the entity is willing to be audited and monitored for  
4 outdoor air, water and land emissions and disposal; stores and manages waste and recyclables in  
5 a way that avoids release into the environment; and manages inputs sustainably. This includes  
6 demonstrating adequate emergency response and environmental health, safety, and management  
7 plans; and

8 (D) Achieving adequate recycling yields. Meaning the recycling supply chain recycles or causes  
9 to be recycled at least 60 percent of each material listed in the recycling acceptance lists (if  
10 applicable, consisting of the uniform statewide collection list developed pursuant to OAR 340-  
11 090-0630(4) and ORS 459A.914(4)(b), the producer responsibility organization recycling  
12 acceptance list as described in OAR 340-090-0630(3), and the list of specifically identified  
13 materials as promulgated and maintained by DEQ pursuant to ORS 459A.917, even if multiple  
14 materials are mixed together, with the remaining material managed in a responsible manner and  
15 in alignment with Oregon's hierarchy of materials management pursuant to ORS 459.015.

16 (b) The responsible standard described in subsection (a) of this section applies to all entities in  
17 the supply chain after the commingled recycling processing facility or producer responsibility  
18 organization collection point (or post-collection in a supply chain without either facility) up to,  
19 and including, the end market.

20 (c) Recycling yield, as stated in section 2(a)(D) of this rule, will be determined as follows:

21 (A) For all materials except for spiral wound containers or composite containers made of paper  
22 and steel, the recycling yield is the amount of the material that was successfully processed by the  
23 end market divided by the amount of the material that entered the recycling supply chain  
24 initially.

25 (B) For spiral wound containers or composite containers made of paper and steel, the recycling  
26 yield is the amount of the metal fraction or paper fraction of the material that was successfully  
27 processed by the end market, divided by the amount of that fraction that entered the recycling  
28 supply chain initially. If the yield of either the metal fraction or of the paper fraction exceeds 60  
29 percent, the composite material is achieving adequate yields.

30 (C) Calculation of recycling yield shall exclude any contaminants that are included in the bale of  
31 received material, as well as incidental materials that are adhered to the received material but are  
32 not targeted for recovery, such as tape and staples on corrugated boxes, or inks and labels on  
33 most types of packages.

34 (D) For the purpose of determining whether at least 60 percent of each material is recycled, yield  
35 for individual materials that are recycled separately from other materials must be evaluated on  
36 the basis of those individual materials. For materials that are mixed together (such as a bale of  
37 mixed paper or mixed plastic), yield must be evaluated as follows:

- 1 (i) Yield for items listed in OAR 340-090-0630(2)(d) must be evaluated separately from other  
2 materials.
- 3 (ii) Yield for items listed in OAR 340-090-0630(2)(f) must be evaluated separately from other  
4 materials if recycled at a paper mill.
- 5 (iii) Yield for items listed in OAR 340-090-0630(2)(k) must be evaluated separately for materials  
6 identified in each subparagraph of paragraphs (A) through (E).
- 7 (iv) Yield must be evaluated separately for any materials proposed by a producer responsibility  
8 organization for addition to the uniform statewide collection list pursuant to ORS  
9 459A.914(4)(b) in a producer responsibility program plan or plan amendment and approved by  
10 DEQ under ORS 459A.878, if required by DEQ.
- 11 (v) Yield for other materials mixed together may be evaluated in total.
- 12 (3) Implementation of the responsibility standard by a producer responsibility organization.
- 13 (a) A producer responsibility organization must ensure that materials collected for recycling go  
14 to responsible end markets as detailed in ORS 459A.896(2) and this rule by completing the  
15 following two steps successively:
- 16 (A) First, a producer responsibility organization must, using a screening assessment form  
17 provided by DEQ, receive and corroborate written verification from each end market and  
18 intermediary supply chain entity that it meets the responsible standard provided by section 2 of  
19 this rule.
- 20 (B) Next a producer responsibility organization must conduct a more detailed assessment of  
21 whether each end market and intermediary supply chain entity meets the responsible standard  
22 provided by section 2 of this rule, either through a verification by the producer responsibility  
23 organization as provided by subsection (e) of this rule or through third-party certification from an  
24 Environmental Quality Commission-approved program.
- 25 (b) For materials described under ORS 459A.869(7)(a) and any other materials collected by a  
26 producer responsibility organization (including collected through contract with a producer  
27 responsibility organization), a producer responsibility organization must complete the step  
28 provided by paragraph (a)(A) by the start date of the program (as defined in OAR 340-090-  
29 0720), and the step provided by paragraph (a)(B) within one year of the start date of the program.  
30 For such materials added after the start date of the program a producer responsibility  
31 organization must complete the step provided by paragraph (a)(A) prior to delivery of the  
32 materials to the end market, and the step provided by paragraph (a)(B) within six months of first  
33 delivery to the end market.
- 34 (c) For materials described under ORS 459A.869(7)(b) and any other materials not collected by  
35 the producer responsibility organization, a producer responsibility organization must complete  
36 the step provided by paragraph (a)(A) within six months of the program start date (as defined in  
37 OAR 340-090-0720, and the step provided by paragraph (a)(B) within 15 months of the start date

1 of the program. For such materials added after the start date of the program a producer  
2 responsibility organization must complete the step provided by paragraph (a)(A) within six  
3 months of delivery of the materials to the end market, and the step provided by paragraph (a)(B)  
4 within 15 months of first delivery to the end market.

5 (d) If a producer responsibility organization completes the step provided by paragraph (a)(B)  
6 prior to and within the timeline of the step provided by paragraph (a)(A), the producer  
7 responsibility organization is not required to perform the step provided by paragraph (a)(A).

8 (e) The producer responsibility verification required by paragraph (a)(B) of this section must  
9 contain the following:

10 (A) A description of how a producer responsibility organization determined that the indicated  
11 entity or entities (if final disposition occurred at multiple sites) was the end market;

12 (B) A list of local, state and national laws and international treaties applicable to the entity as  
13 required by section 2(a)(A) of this rule;

14 (C) Documentation that the end market and intermediary supply chain entities meet all  
15 requirements of section 2 of this rule;

16 (D) Documentation of any noncompliance with the requirements section 2 of this rule.

17 (E) Documentation of the qualification of the auditor required by section 4 of this rules; and

18 (F) Certification and signature from the auditor required by section 4 of this rule that the end  
19 market meets the requirements of section 2 of this rule.

20 (f) The detailed verifications required by paragraph (a)(B) of this rule and certification audits  
21 required by section 4 of this rule must occur on an annual basis, with the first renewal  
22 verification or certification audits occurring within a year of initial certification.

23 (4) Auditing. To demonstrate compliance with the requirement that materials collected for  
24 recycling go to responsible end markets as required by ORS 459A.896(2) and this rule, a  
25 producer responsibility organization must conduct auditing and provide audit results in annual  
26 reporting to DEQ. These audits must include results of random bale tracking to verify chain of  
27 custody and must demonstrate and certify that end markets meet the requirements of section 2  
28 and 3 of this rule. For the purposes of enforcement, DEQ may conduct its own random bale  
29 tracking.

30 (5) Definition of practicable. For purposes of ORS 459A.869(7) and ORS 459A.896(2),  
31 practicable actions that may be undertaken by a producer responsibility organization must be  
32 determined in accordance with this rule.

33 (a) Practicable actions may include, but are not limited to, the following:

34 (A) Providing financial support to help an existing end market that does not meet the standard for  
35 responsible under section 2 of this rule or an existing market that is not in alignment with the

- 1 hierarchy of materials management options under ORS 459A.015(2), to upgrade or change  
2 operations to become responsible or aligned with the hierarchy of materials management.
- 3 (B) Providing financial support to divert materials to a different end market that is responsible  
4 under section 2 of this rule or in alignment with the hierarchy of materials management.
- 5 (C) Directing materials to an alternative end market if materials are directly under producer  
6 responsibility organization control.
- 7 (D) Offering to buy or take ownership of materials to directly control their flow if materials are  
8 not already directly under the control of the producer responsibility organization.
- 9 (E) Developing a new market for a material.
- 10 (b) If the results of an audit under section 4 of this rule show that an end market does not meet  
11 the responsible end market standards in section 2 of this rule, the producer responsibility  
12 organization must carry out practicable actions to meet the responsible end market standards in  
13 section 2 of this rule.
- 14 (c) A producer responsibility organization may not claim that an action is not practicable simply  
15 because it results in higher costs for the producer responsibility organization. A claim that an  
16 action is not practicable must demonstrate costs that are not justified given the resulting societal  
17 benefits. A producer responsibility organization must choose one of the following two methods  
18 for showing that costs are not justified given resulting societal benefits:
- 19 (A) Evaluate the per-ton transactional costs of all possible solutions against the benchmark for  
20 average societal benefit of recycling. The benchmark for average societal benefit of recycling is  
21 \$2,017 per ton expressed in 2021 dollars, and will be adjusted for inflation no more frequently  
22 than once per year. Any adjustment shall be limited to an adjustment using the CPI - U as  
23 published by the Bureau of Labor Statistics, using calendar year 2021 as the base year which  
24 corresponds to the benchmark value. A per-ton cost lower than the societal benefit benchmark is  
25 cost effective and potentially practicable. A per-ton cost higher than the per-ton societal benefit  
26 value is not practicable.
- 27 (B) Perform an analysis of financial costs and societal benefits customized to the particular  
28 materials and practices at hand. A customized approach could be warranted under several  
29 circumstances, such as if the material in question has a societal benefit well below the system-  
30 wide average.
- 31 (d) The department will review and evaluate a producer responsibility organization claim that an  
32 action is not practicable due to costs. If the department agrees with the claim, the department will  
33 then review the material in question and its inclusion in a recycling acceptance list. If the  
34 department's review determines that an action is practicable, then the producer responsibility  
35 organization must immediately undertake that action.
- 36 (e) DEQ will consult with the Oregon Recycling System Advisory Council prior to deciding if an  
37 action is practicable.

1 (6) Reporting. A producer responsibility organization must append all screening assessments,  
2 verification reports, and certification reports conducted in a given quarter to quarterly disposition  
3 reports submitted to DEQ pursuant to ORS 459A.887(6).

4 (7) Application of Oregon’s Material Management Hierarchy. In cases of conflict between the  
5 elements of Oregon’s material management hierarchy under ORS 459.015(2)(c)(C)(i)  
6 (preference for recycling pathways that displace more impactful materials) and ORS  
7 459.015(2)(c)(C)(ii) (preference for recycling pathways that best preserve value and molecular  
8 structure), DEQ may identify the environmentally preferable option among pathways under  
9 consideration.

10 **Statutory/Other Authority:** ORS 459A.975 and 468.020  
11 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

12 **OAR 340-090-0680**

13 **Producer Responsibility Organization Coordination**

14 (1) Interim coordination.

15 (a) For the initial program period, if DEQ receives program plans from multiple prospective  
16 producer responsibility organizations, DEQ may appoint an interim coordinator to coordinate  
17 among the prospective producer responsibility organizations. The interim coordinator will  
18 develop an interim coordination plan that meets the criteria of section 2 of this rule. The interim  
19 coordinator will serve in its role until December 31, 2026, or until a coordination plan proposed  
20 by the producer responsibility organizations has been approved by DEQ, whichever comes  
21 sooner.

22 (b) From March 31, 2024, onward and prior to the approval by DEQ of a coordination plan  
23 developed by the producer responsibility organizations, DEQ may assign interim coordination  
24 tasks, including but not limited to those listed in sub-section (c)(A) of this rule, to a producer  
25 responsibility organization or to a willing applicant producer responsibility organization. When  
26 assigning tasks to a producer responsibility organization DEQ will consider the following criteria  
27 during the program plan review:

28 (A) The qualifications of the producer responsibility organization;

29 (B) The producer responsibility organization’s access to financial resources;

30 (C) The initial producer membership of the producer responsibility organization; and

31 (D) The quality of the program plan submitted by the producer responsibility organization.

32 (c) DEQ may assign interim coordination tasks to approved producer responsibility  
33 organizations, or to willing applicant producer responsibility organizations. Approved producer  
34 responsibility organizations must begin the interim coordination tasks upon DEQ assigning the  
35 task. The tasks required by this subsection include the following:

- 1 (A) Setting up single accounting point of contact and invoice processing system for required  
2 producer responsibility organization compensation payments, including:
- 3 (i) Payment of contamination management fees (ORS 459A.920) and processor commodity risk  
4 fees (ORS 459A.923) to commingled recycling processing facilities;
- 5 (ii) Compensation to (and associated negotiation with) local governments for service expansion  
6 on the basis of the needs assessment (ORS 459A.890(5) and (8)).
- 7 (iii) Compensation to local governments for expenses besides service expansion (ORS 459A.890  
8 not including subsection (5)); and
- 9 (iv) Compensation to existing depots for service expansion to accommodate products on the  
10 producer responsibility organization depot list (ORS 459A.896(1)(a)).
- 11 (B) Setting up a system to reconcile expenses amongst producer responsibility organizations, in  
12 proportion to modified market share as required by OAR 340-090-0700(2).
- 13 (C) Establishing a depot collection system (per ORS 459A.896(1)) that meets collection targets,  
14 convenience standards and performance standards established by the Environmental Quality  
15 Commission.
- 16 (D) Developing and issuing educational materials that promote the uniform statewide collection  
17 list and other requirements pursuant to ORS 459A.893.
- 18 (d) The interim coordinator will conduct the following tasks in consultation with DEQ and the  
19 producer responsibility organizations:
- 20 (A) Calculate the modified market share of each producer responsibility organization as required  
21 by OAR 340-090-0700(3).
- 22 (B) Define the standard product categorization to be used in producer responsibility organization  
23 membership fee structures.
- 24 (e) The interim coordinator will develop an interim coordination plan meeting the requirements  
25 of section 2 of this rule. The interim coordinator will review the draft plan with all prospective  
26 producer responsibility organizations and with DEQ, and then produce an updated version for  
27 review and approval by DEQ. Once approved by DEQ, producer responsibility organizations  
28 must follow the interim plan until it is replaced with a final coordination plan.
- 29 (f) DEQ's costs in appointing and overseeing an interim coordinator are costs of administering  
30 the provisions ORS 459A.860 to 459A.975.
- 31 (2) Standards and requirements for coordination plans.
- 32 (a) A producer responsibility organization is responsible for the implementation of an approved  
33 coordination plan.

- 1 (b) A coordination plan must include:
- 2 (A) Identification of the producer responsibility organization coordinating body;
- 3 (B) A process for designating a new coordinating body and notifying DEQ in advance;
- 4 (C) A process for resolving disputes between producer responsibility organizations and between  
5 producer responsibility organizations and local governments and their service providers;
- 6 (D) A process by which a producer responsibility organization or multiple producer  
7 responsibility organizations will assume responsibilities to implement a coordination plan should  
8 the coordinating body be unable to implement the coordination plan;
- 9 (E) A process to address coordination in the event a producer responsibility organization ceases  
10 implementation of a producer responsibility program; and
- 11 (F) A plan for how the producer responsibility organizations will coordinate to ensure that their  
12 obligations under provisions ORS 459A.860 to 459A.975 are met.
- 13 (c) In reviewing a coordination plan submitted for approval, DEQ will consider whether the  
14 coordination plan will ensure:
- 15 (A) Achievement of the statewide plastics recycling goal established under ORS 459A.869(9),  
16 including development of combined plastic recycling rate projections across all producer  
17 responsibility organizations;
- 18 (B) Education that promotes the uniform statewide collection list as provided under ORS  
19 459A.893;
- 20 (C) A Single-point-of-contact accounting that provides timely funding, reimbursement, and  
21 payments required under ORS 459A.860 to 459A.975, including funding, reimbursement and  
22 payments related to ORS 459A.890, ORS 459A.896, ORS 459A.920, and 459A.923;
- 23 (D) Processes to allocate costs among producer responsibility organizations that are proportional  
24 to modified market share as required by OAR 340-090-0700(2);
- 25 (E) A consistent statewide system to ensure all Oregon residents can easily identify, understand,  
26 and access services provided through ORS 459A.860 to 975, including through consistent  
27 messaging and branding, and through a single website listing the services provided by all  
28 producer responsibility organizations under ORS 459A.896;
- 29 (F) Assurance that all covered products collected for recycling are delivered to responsible end  
30 markets and managed according to Oregon's materials management hierarchy, as required by  
31 ORS 459A.896(2);
- 32 (G) A single point of contact for communicating with the Recycling Council and DEQ, including  
33 Recycling Council recommendations and material lists;

- 1 (H) Establishment of a recycling depot system that meets collection targets, convenience  
2 standards, and performance standards established in OAR 340-090-0640, OAR 340-090-0650,  
3 and OAR 340-090-0660;
- 4 (I) A process for aggregating data submitted by producer responsibility organizations to calculate  
5 and publish modified market shares, identify and publish a list of large producers, and report  
6 market share data to DEQ; and
- 7 (J) A list of standard product categories that the producer responsibility organizations will use to  
8 establish their membership fees pursuant to ORS 459A.884.
- 9 (3) Rules establishing processes for submittal, review, approval or rejection, amendment, and  
10 revocation of coordination plans.
- 11 (a) Producer responsibility organizations must jointly submit a coordination plan to DEQ by  
12 February 1, 2026. Once approved, this plan will replace the interim coordination plan described  
13 in section 1 of this rule.
- 14 (b) DEQ will approve a coordination plan if it determines that the plan adequately meets all  
15 requirements of section 2 of this rule.
- 16 (c) The coordination plan review period of up to 270 days will consist of the following phases:
- 17 (A) DEQ shall approve, approve with conditions, or reject the submittal within 90 days of  
18 receiving it. If DEQ rejects the submittal, DEQ will provide comments that discuss the reasons  
19 for the rejection.
- 20 (B) If DEQ rejects the submittal, the producer responsibility organizations must jointly submit a  
21 revised plan no later than 60 days from the date of rejection. The revised submittal must address  
22 DEQ's comments on the initial submittal.
- 23 (C) DEQ shall approve, approve with conditions, or reject the revised submittal within 90 days  
24 of receiving it. If DEQ rejects the revised submittal, DEQ may do the following:
- 25 (i) Request that the producer responsibility organizations make further revisions to the plan;
- 26 (ii) Direct the producer responsibility organization to make specific revisions to the plan; or
- 27 (iii) Issue an order to direct implementation of an alternative coordination plan pursuant to  
28 section 4 of this rule.
- 29 (D) The producer responsibility organizations must jointly submit a second revised plan,  
30 pursuant to paragraph (c)(C)(i) or (ii) of this section, no later than 30 days from the date of  
31 second rejection.
- 32 (E) If the second revision is not timely or does not meet the coordination plan requirements of  
33 section 2 of this rule to DEQ's satisfaction, DEQ may direct specific revisions or issue an order  
34 to direct implementation of an alternative coordination plan pursuant to section 4 of this rule.



- 1 Failure to submit an approvable plan under paragraph D of this this subsection is a violation of  
2 these rules for purposes of enforcement. If DEQ directs revisions, the producer responsibility  
3 organizations must implement the revisions or request a hearing as provided in ORS chapter 183.
- 4 (d) Producer responsibility organizations may only change an approved coordination plan  
5 through plan amendments. Producer responsibility organizations must submit a coordination plan  
6 amendment to DEQ for approval at least 45 days before the change is to take effect. DEQ will  
7 approve or reject the amendment request within 45 days of receiving the request. DEQ may, for  
8 good cause, allow the producer responsibility organizations to submit an amendment request less  
9 than 45 days before the change is to take effect.
- 10 (e) DEQ's rejection of a coordination plan or plan amendment does not relieve the producer  
11 responsibility organizations or the coordination body from continuing to implement an approved  
12 coordination plan.
- 13 (f) In accordance with the applicable provisions of ORS chapter 183 relating to contested case  
14 proceedings, DEQ may issue an order to suspend, amend, or revoke a coordination plan in whole  
15 or in part if it determines that implementation of the coordination plan would:
- 16 (A) Present a risk to the environment or public health, or
- 17 (B) Have a material impact on the ability of a producer responsibility organization to implement  
18 its producer responsibility program plan in compliance with ORS 459A.860 to 459A.975.
- 19 (4) DEQ issuance of an order requiring a coordination plan.
- 20 (a) If no coordination plan is submitted within the timelines specified in section 3 of this rule, or  
21 if DEQ rejects a revised coordination plan pursuant to section 3 of this rule, DEQ may require  
22 the producer responsibility organizations to implement a coordination plan by order.
- 23 (b) The order will provide a start date and include any requirements DEQ determines are  
24 necessary to implement ORS 459A.860 to 459A.975 and related rules. The order may direct a  
25 producer responsibility organization to undertake the role of coordinating body and coordinate  
26 the implementation of the order and require that all other producer responsibility organizations  
27 collaborate with the coordinating body on implementation of the plan.
- 28 (c) Failure to adequately implement or comply with an order issued under this section is a  
29 violation of these rules.
- 30 (d) Within 20 days of the issuance of an order under this section a producer responsibility  
31 organization may request a hearing as provided in ORS chapter 183 . If a producer responsibility  
32 organization requests such a hearing under ORS chapter 183 the producer responsibility  
33 organizations shall continue to implement the order pending the outcome of legal proceedings.
- 34 (5) Coordination rules for the entry of new producer responsibility organizations.
- 35 (a) If a new producer responsibility organization enters the program in 2026 or later, the  
36 approved producer responsibility organizations coordination plan must be updated by plan

1 amendment. If no producer responsibility organization coordination plan has been approved by  
2 DEQ, one must be submitted and finalized within one year, subject to the review process  
3 outlined in rule OAR 340-090-0680(3). The timelines and procedures provided in section 1 for  
4 interim coordination will apply to a new producer responsibility organization before 2026.

5 (b) If an updated producer responsibility coordination plan is not approved within the one year  
6 DEQ may require the implementation of a coordination plan by order pursuant to section 4 of  
7 this rule.

8 (c) During the plan development and review phase under subsection (a), DEQ may revoke the  
9 existing coordination plan and reinstate interim coordination pursuant to section 1.

10 **Statutory/Other Authority:** ORS 459A.975 and 468.020

11 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

12 **OAR 340-090-0690**

13 **Producer Responsibility Organization Fees**

14 • (1) Program Plan Review Fee. Each producer responsibility organization that submits a plan  
15 under ORS 459A.875 will pay a fee of \$150,000 for DEQ's review of the plan. A producer  
16 responsibility organization will pay the fee when it submits the plan to DEQ. A plan will not be  
17 considered submitted to DEQ until the fee is paid.

18 (2) Annual Administration Fee. DEQ will assess an annual administration fee each calendar year  
19 in the amount of \$4,000,000 for the first four years of the program (2025-2028) and \$3,000,000  
20 for all subsequent years of the program.

21 (a) DEQ will invoice and a producer responsibility organization must pay the annual  
22 administration fee as follows:

23 (A) In the first program year (covering 2025) DEQ will send a producer responsibility  
24 organization a provisional invoice on or before September 1, 2024. DEQ will send a producer  
25 responsibility organization a final invoice upon completion of the producer responsibility  
26 program plan approval process under ORS 459A.878. A producer responsibility organization  
27 will pay the first program year's fee within 30-days of DEQ sending it a final invoice.

28 (B) In each year after the first program year DEQ will invoice a producer responsibility  
29 organization on or before September 1 of the proceeding program year for payment within 30-  
30 days of invoicing.

31 (b) DEQ may at its discretion reduce the fee in a given year if it determines that the full amount  
32 is not required to pay the costs of administering, implementing and enforcing the provisions of  
33 ORS 459A.860 to 459A.975 in that year.

34 (c) If DEQ has approved only one producer responsibility organization plan under ORS  
35 459A.878 for a given year that producer responsibility organization will pay the entirety of the  
36 annual administration fee.

1 (d) If DEQ has approved more than one producer responsibility organization plan under ORS  
2 459A.878 for a given year the annual administration fee will be divided among the producer  
3 responsibility organizations as follows:

4 (A) In the first program year the producer responsibility organizations will pay to DEQ equal  
5 shares of the annual administration fee. On or before September 1, 2025, DEQ will notify the  
6 producer responsibility organizations of the interim modified market share calculations pursuant  
7 to OAR 340-090-0700(3). The producer responsibility organizations will reconcile payment with  
8 each other such that each producer responsibility organization pays a total amount of the annual  
9 administration fee that is proportional to its modified market share.

10 (B) In each year after the first program year the fee will be divided between the producer  
11 responsibility organizations in proportion to their modified market share as determined by OAR  
12 340-090-0700(2).

13 **Statutory/Other Authority:** ORS 459A.975 and 468.020

14 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

15 **OAR 340-090-0700**

16 **Market Share**

17 Market share as used in ORS 459A.860 to 968 and related rules is a producer's percentage of all  
18 covered products sold in or into this state, as calculated in accordance with this rule.

19 (1) Methods for Calculating Market Share. Market share will be calculated as follows:

20 (a) Market share will be denominated by the percentage of weight (mass) of covered product  
21 measured in kilograms.

22 (b) A producer's market share will be calculated by dividing the weight of all covered products  
23 sold or distributed by the producer in or into Oregon in a particular program year by the total  
24 weight of all covered products sold or distributed by all producers in or into Oregon in that year.

25 (c) A producer responsibility organization's market share will be calculated by dividing the  
26 summed weight of all covered products sold or distributed by all of the producer responsibility  
27 organization's member producers in or into Oregon in a particular program year by the total  
28 weight of all covered products sold or distributed by all producers in or into Oregon in that year.

29 (d) A producer must on an annual basis submit market data establishing the weight of covered  
30 products sold or distributed in or into Oregon to the producer responsibility organization to  
31 which it belongs. Producers must submit a description of their methodology for calculating  
32 covered product weight to the producer responsibility organization along with the data.  
33 Methodology used must be in accordance with applicable best practices. If estimated market data  
34 is submitted by a producer and better market data becomes available that demonstrates the  
35 estimates were not accurate, the producer must report corrections to the estimated data to the  
36 producer responsibility organization before the next annual reporting deadline.

1 (c) When submitting market data to DEQ in an annual report, a producer responsibility  
2 organization will submit the methodological justifications along with the corresponding data.

3 (2) Purpose of and Method for Calculating Modified Market Share. If DEQ approves more than  
4 one producer responsibility organization plan pursuant to ORS 459A.878, financial obligations  
5 of implementation of provisions ORS 459A.860 to 459A.975 will be allocated among the  
6 producer responsibility organizations by modified market share, as provided by this section.

7 (a) Modified market share will be denominated in percentage of financial burden measured in US  
8 dollars.

9 (b) A producer responsibility organization's modified market share will be calculated as follows:

10 (A) The material-specific unit factor, described in subsection c of this section, is multiplied by  
11 the total weight of covered products of each material sold or distributed in or into Oregon by  
12 each member producer;

13 (B) The results of paragraph A for each material and each member producer of the producer  
14 responsibility organizations are summed;

15 (C) the weight of all covered product of each material sold in or into Oregon in a given year is  
16 multiplied by the material-specific unit factors and the result for each material are summed;

17 (D) The result of paragraph B is divided by the result of paragraph C.

18 (E) The result of paragraph D is a producer responsibility organization's modified market share.

19 (c) The method and process for calculating material-specific unit factors for individual materials  
20 shall be included in any coordination plan approved by DEQ pursuant to OAR 340-090-0640.  
21 During the period of interim coordination pursuant to OAR 340-090-0640(1), DEQ will contract  
22 with an independent organization to develop an index of material-specific unit factors.

23 (3) Interim Reporting of Market Share. By August 1, 2025, a producer responsibility  
24 organization must report information that will be used to calculate "interim market share" and  
25 "interim modified market share" for the 2025 program year to DEQ. Interim market share is  
26 estimated market share for July 1 - December 31, 2025, calculated from estimates of the weight  
27 of covered product sold into Oregon by each member producer, organized by type of material.  
28 Interim modified market share is estimated modified market share for July 1 - December 31,  
29 2025, calculated from these same producer estimates. Pursuant to ORS 459A.869(12), a producer  
30 responsibility organization's minimum interim market share is 10%.

31 **Statutory/Other Authority:** ORS 459A.975 and 468.020

32 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

33 **OAR 340-090-0710**

34 **Proprietary and Confidential Information**

35 (1) For purposes of ORS 459A.860 to 975:

1 (a) “proprietary information” is information protected as a trade secret under the Uniform Trade  
2 Secrets Act.

3 (b) “confidential information” is any information, written or oral, which relates to the disclosing  
4 party’s business, products, processes, or services, including, but not limited to, information  
5 related to concepts, ideas, financial, accounting, computer programs, techniques, proposals,  
6 business plans, business strategy, geographic expansion strategy, products under development,  
7 clients (including names, addresses, and lists thereof), client requirements, forecasts, marketing,  
8 selling, and the documentation thereof.

9 (2) A party providing information to DEQ that it considers proprietary or otherwise confidential  
10 must, at the time it provides the information, specify that the information is proprietary or  
11 confidential and otherwise not subject to disclosure. The claim must be assigned to specific  
12 information and not a generalized statement.

13 (3) DEQ may require at any time that a claimant substantiate its claim that information is  
14 proprietary or confidential.

15 (4) Notwithstanding section 1 of this rule, the following information is not proprietary or  
16 confidential for purposes of ORS 459A.860 to 975:

17 (a) Information that is already publicly available and where any potential economic value is  
18 derived solely from compilation;

19 (b) The market shares of producer responsibility organizations;

20 (c) The list of the top 25 producers in Oregon by market share in alphabetical order, and

21 ~~(d) The list of end markets of Oregon’s waste including the business or person name; city, state,~~  
22 ~~region, and country; identity of the material received; and amount received, excluding the names~~  
23 ~~of the commingled recycling processing facilities where the waste originated.~~

24 (5) If necessary for the implementation or enforcement of ORS 459A.860 to 975, DEQ may  
25 bring proprietary or confidential information to the attention of a producer responsibility  
26 organization, provided that the producer responsibility organization agrees to treat the  
27 information in accordance with the limitations in statute and rule.

28 (6) Proprietary information may only be disclosed beyond subsection (5) above as provided  
29 under the Uniform Trade Secrets Act. Confidential information may only be disclosed beyond  
30 subsection (5) above after 10 years from the date the discloser originally provided the  
31 information to DEQ. If a third party requests proprietary or confidential information that has  
32 been provided to DEQ, DEQ will inform the disclosing party of the request and make the  
33 determination regarding disclosure. The decision of the DEQ will be subject to the provisions  
34 and process required by ORS 459A.875(2)(e).

35 **Statutory/Other Authority:** ORS 459A.975 and 468.020

36 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

1 **OAR 340-090-0720**

2 **Program Calendar**

3 (1) The first three-year producer responsibility program plan period will include the 2025, 2026,  
4 and 2027 calendar years. It will run from July 1, 2025 (or earlier in 2025, if stipulated in  
5 approved program plan) to December 31, 2027.

6 (2) Subsequent producer responsibility program plan periods will run for five-year increments  
7 beginning on January 1 and ending on December 31 (the first set of updated plans will be valid  
8 from a start date of January 1, 2028 through to an end date of December 31, 2032).

9 (3) Prospective new producer responsibility organizations may submit program plans on the  
10 same calendar as renewal applicants (180 days before the end of a program period) and may also  
11 submit plans at other times (for example, midstream in a program period) upon petitioning DEQ  
12 and receiving advance approval.

13 **Statutory/Other Authority:** ORS 459A.975 and 468.020

14 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

15 **OAR 340-090-0730**

16 **Producer responsibility organizations with less than 10 percent market share**

17 • (1) If DEQ determines that a producer responsibility organization's market share has fallen  
18 below the 10 percent threshold provided by ORS 459A.869(12), DEQ shall:

19 (a) Issue notification to the producer responsibility organization of the intent to revoke plan;

20 (b) Begin a 60-day review process, during which the producer responsibility organization may  
21 describe any actions it will undertake to exceed the 10 percent threshold;

22 (c) After the conclusion of the 60-day review period, issue either an order revoking the producer  
23 responsibility organization's program plan or a notification that the plan will not be revoked; and

24 (2) If DEQ revokes a plan under this rule the producer responsibility organization must notify its  
25 producer members. Producer responsibility organization members will have 60 days to transition  
26 to another producer responsibility organization.

27 (3) If DEQ notifies a producer responsibility organization that a plan will not be revoked,  
28 pursuant to subsection 1(c) of this rule, DEQ may include any of the actions described by the  
29 producer responsibility organization pursuant to subsection 1(b) of this rule as conditions on its  
30 decision not to revoke the plan.

31 (4) An order revoking a plan under this rule may be appealed as provided in ORS chapter 183.

32 **Statutory/Other Authority:** ORS 459A.975 and 468.020

33 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

34 **OAR 340-090-0740**

35 **Reporting for plastic goal**

1 To enable DEQ to assess progress toward the statewide plastic recycling goal, a producer  
2 responsibility organization's annual reporting of the weight of plastic packaging and food  
3 serveware sold in Oregon by member producers must use a product categorization that aligns  
4 with the uniform statewide collection list categorization of products, as required under ORS  
5 459A.887(2)(c).

6 **Statutory/Other Authority:** ORS 459A.975 and 468.020  
7 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

8 **OAR 340-090-0750**

9 **Program plan amendments and producer responsibility organization fees**

10 (1) A producer responsibility organization's routine, annual updating of base fee rate amounts to  
11 align with the most recent sales information received from member producers does not constitute  
12 a method change and will not require a program plan amendment.

13 (2) Changes to fee structure or method of calculating fees constitute a method change and will  
14 require a program plan amendment.

15 (3) A producer responsibility organization may request provisional approval of a plan  
16 amendment if it needs to implement a fee structure method change rapidly due to financial  
17 urgency. If such a request is made, DEQ will respond within 30 days . If provisional approval is  
18 granted, the producer responsibility organization may implement the fee schedule method change  
19 on a provisional basis while the process for final approval, pursuant to ORS 459A.878, is  
20 ongoing. If the plan amendment is ultimately not approved, the producer responsibility  
21 organization must correct its member accounts to reverse the provisional change.

22 **Statutory/Other Authority:** ORS 459A.975 and 468.020  
23 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

24 **OAR 340-090-0760**

25 **Producer responsibility organization membership fees**

26 A material is accepted by recycling collection programs in this state, for the purpose of ORS  
27 459A.884(3), only if it is designated by rule on the Local Government Recycling Acceptance  
28 List, pursuant to OAR 340-090-0630(2), or the Producer Responsibility Organization Recycling  
29 Acceptance List, pursuant to OAR 340-090-0630(3), or otherwise has been added to the Uniform  
30 Statewide Collection List by the mechanism provided for in ORS 459A.914(4)(b).

31 **Statutory/Other Authority:** ORS 459A.975 and 468.020  
32 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

33 **340-090-0770**

34 **Local Government Transportation Costs Reimbursement**

35 (1) A producer responsibility organization must pay the costs of transporting covered products  
36 from a recycling depot or recycling reload facility to a commingled recycling processing facility  
37 or a responsible end market as provided by ORS 459A.890(2) and this rule.

- 1 (2) Transportation costs must be based on the actual costs of managing and transporting covered  
2 products that must be shipped more than 50 miles.
- 3 (3) The 50-mile distance in section 2 of this rule and ORS 459A.890(2)(b)(E) is the shortest  
4 driving distance to the nearest commingled recycling processing facility or a responsible end  
5 market with capacity to accept the material and applies to covered products as stated in  
6 subsections (a) through (d) of this section.
- 7 (a) If the material is fully commingled, the distance measured is to the nearest commingled  
8 recycling processing facility with capacity to accept the material.
- 9 (b) If the material is collected separately (for example glass) or is not fully commingled and  
10 requires further sorting or processing before being received by a responsible end market, then the  
11 distance is measured to the nearest processing or sorting facility that will prepare the material  
12 and send it to a responsible end market.
- 13 (c) If the material is collected separately and in a condition that would allow it to be received  
14 directly by a responsible end market without additional processing, then the distance is measured  
15 to a responsible end market.
- 16 (d) If a separated material or a group of materials is initially taken to a commingled recycling  
17 processing facility or other processing facility and the material requires additional processing or  
18 sorting before it can be accepted by a responsible end market, then the distance is measured to  
19 the initial commingled recycling processing facility or other processing facility. The producer  
20 responsibility organization is not responsible under this rule for paying the transportation costs  
21 associated with the transport of material from the initial commingled recycling processing  
22 facility or other processing facility to additional processing facilities or a responsible end market.
- 23 (4) Costs to receive, consolidate, load and transport covered products include, but are not limited  
24 to, purchasing and maintaining equipment, signage, and other similar costs of operating the  
25 recycling depot or recycling reload facility not already covered under other sections of ORS  
26 459A.860 through ORS 459A.975.
- 27 (5) Transportation costs include administrative costs related to the activities described in ORS  
28 459A.890(2). Administrative costs include, but are not limited to, costs related to staffing and the  
29 hiring and managing of staff.
- 30 (6) Transportation costs do not include the proportion of a shipment of recyclable material that is  
31 not covered products, as provided by ORS 459A.890(2)(b)(C). Costs that are not eligible for  
32 payment under ORS 459A.890(2)(b)(C) will be determined as stated in subsections (a) through  
33 (c) of this section.
- 34 (a) Until completion of the study described in subsection (b) of this section, a producer  
35 responsibility organization will use data from the 2023 Oregon Solid Waste Characterization and  
36 Composition Study to determine the proportion of a shipment of recyclable material that is not  
37 covered products.



1 (b) Starting in 2027, and at least once every five years thereafter, a producer responsibility  
2 organization must fund a study to determine the proportion of collected recyclable material that  
3 is covered product and is eligible for transportation costs reimbursement. The study will include  
4 the following:

5 (A) The study will provide statewide averages for the proportion of covered material in  
6 commingled recyclable material, recyclable material that is collected separately and recyclable  
7 material that is not fully commingled. For the latter two categories the study may provide  
8 different averages for different materials as appropriate.

9 (B) Study protocols and timing must be included in the producer responsibility organization's  
10 program plan and will be approved as a part of plan approval under ORS 459A.878. If multiple  
11 producer responsibility organization program plans are approved by DEQ, the producer  
12 responsibility organizations' coordinating body will undertake one study and submit a joint study  
13 protocol to DEQ for approval in the manner provided by DEQ.

14 (C) Upon completion of a study, a producer responsibility organization, or coordinating body,  
15 will use the statewide averages from the study to determine the proportion of a shipment of  
16 recyclable material that is not covered products.

17 (c) If a local government, a local government's service provider or a producer responsibility  
18 organization believes that the local commingled recycling stream has a substantially different  
19 proportion of recyclable material that is not covered products compared to the statewide average,  
20 then a local government, a local government's service provider or a producer responsibility  
21 organization may, at their own expense, conduct a study to better determine the proportion of  
22 recyclable material that is not covered products in the local collected commingled recycling  
23 stream. The party conducting the study will provide the other parties and DEQ at least 30 days to  
24 comment on study methods. The dispute resolution process in the producer responsibility  
25 organization's approved program plan shall apply to any dispute between the producer  
26 responsibility organization, or a coordinating body, and the local government or local  
27 government's service provider regarding a study performed under this subsection. Upon  
28 completion of the study and subject to dispute resolution and DEQ concurrence, the averages  
29 determined in the study will be used by a producer responsibility organization, or a coordinating  
30 body, and the local government or local government's service provider that performed the study.

31 (7) Transportation costs include the cost to receive, consolidate, and load covered products. If a  
32 shipment of material contains both covered products and material that is not covered products,  
33 the cost a producer responsibility organization, or a coordinating body, must pay to receive,  
34 consolidate and load are the costs associated with the covered product. If such costs associated  
35 with the covered products cannot be separated from such costs associated with material that is  
36 not covered product and a producer responsibility organization and a local government or local  
37 government's service provider cannot otherwise agree on the payment of such costs, the  
38 producer responsibility organization, or coordinating body, will pay the total cost to receive,  
39 consolidate and load the material reduced by the estimated proportion of the material that is not  
40 covered product.

1 (8) For purposes of this rule, material is not fully commingled if a load of recyclable material  
2 intended to be transported to a commingled recycling processing facility contains some but not  
3 all the material listed on the Uniform Statewide Collection List.

4 **Statutory/Other Authority:** ORS 459A.975 and 468.020

5 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

6 **OAR 340-090-0780**

7 **Method for Determining Payment of Transportation Costs**

8 (1) A producer responsibility organization must include in a program plan submitted under ORS  
9 459A.875 methods for calculating transportation costs.

10 (a) Methods may include rate schedules or zonal maps specific to locations and materials,  
11 periodic adjustments for fuel prices or other variable factors.

12 (b) Methods must account for proximity to an appropriate commingled recycling processing  
13 facility or responsible end market that has capacity to process or recycle the material and other  
14 factors that could affect transportation costs.

15 (c) Methods must include a voluntary option that allows service providers to transfer some or all  
16 transportation responsibilities to the producer responsibility organization or coordinating body.

17 (d) A producer responsibility organization must share a draft approach and seek feedback from  
18 local governments and local government service providers to develop the proposed methods.

19 (e) DEQ will consider feedback from local governments and local government service providers  
20 on the method proposed by the producer responsibility organization in determining whether to  
21 approve the method as part of the producer responsibility plan under ORS 459A.878. DEQ may  
22 require a producer responsibility organization to amend an approved program plan at any time if  
23 the department determines that the approved methods are not adequate.

24 (f) A producer responsibility organization must implement the method for paying transportation  
25 costs approved as part of its program plan.

26 (2) A producer responsibility organization, or a coordinating body, a local government or  
27 designated local government's service provider and DEQ may agree in writing to use an  
28 alternative method of calculating transportation costs that is not approved as part of the program  
29 plan, provided that the alternative method complies with ORS 459A.890(2)(c) and any other  
30 applicable requirements.

31 **Statutory/Other Authority:** ORS 459A.975 and 468.020

32 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

33 **OAR 340-090-0790**

34 **Expansion of Service**

- 1 (1) The program plan must describe how the producer responsibility organization will implement  
2 the requirements of ORS 459A.890(5), this section and OAR 340-090-0800. The producer  
3 responsibility plan must include:
- 4 (a) A schedule for implementing collection program expansions and improvements throughout  
5 the state;
- 6 (b) For the initial program plan period only (July 2025 through December 2027), a plan for how  
7 the producer responsibility organization will implement expansion of collection services  
8 according to the following order of priority:
- 9 (A) Highest priority shall be given to local governments that are not, or will not be, able to  
10 provide the opportunity to recycle as stated in ORS 459A.005 and ORS 459A.007, in the absence  
11 of producer responsibility organization funding.
- 12 (B) Existing recycling depots to provide for the collection of any materials that were formerly  
13 collected on-route by the local government or a local government's service provider, as needed  
14 to ensure continuation of recycling opportunities.
- 15 (C) Existing recycling depots to provide for the collection of any materials that are not currently  
16 or were not formerly collected on-route by the local government or the local government's  
17 service provider.
- 18 (D) Local governments with populations less than 4,000, according to the Portland State  
19 University Population Research Center's most recent Population Estimate Report, or such other  
20 estimate approved by the department, regardless of whether they are looking to add new service  
21 or expand existing services.
- 22 (E) Local governments of any size that are looking to add new on-route or recycling depot  
23 service.
- 24 (F) All other local governments that are looking to expand existing on-route collection, recycling  
25 depots or both, in order of ascending population.
- 26 (c) For program plan periods after the initial period described in subsection (b) of this section,  
27 DEQ may provide guidance to a producer responsibility organization, or coordinating body, for  
28 the inclusion of any priority for implementing the expansion of collection service in a renewed  
29 program plan.
- 30 (d) A method for determining advanced funding or reimbursement amounts under ORS  
31 459A.890(5), consistent with OAR 340-090-0810.
- 32 (e) An estimate of the total amount of funds that will be made available to each local government  
33 included in DEQ's needs assessment under ORS 459A.890(5) per year; and
- 34 (f) Sample forms with details to be included in reimbursement or advanced funding requests  
35 from local governments or a local government's service provider authorized by a local  
36 government to provide services under ORS 459A.890.

1 (2) A producer responsibility organization must submit an amendment to a producer  
2 responsibility program plan according to ORS 459A.881 when responding to a new needs  
3 assessment provided by DEQ according to ORS 459A.890(8) and OAR 340-090-0800

4 **Statutory/Other Authority:** ORS 459A.975 and 468.020

5 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

6 **OAR 340-090-0800**

7 **Expansion of Service Funding and Needs Assessment**

8 (1) Costs associated with the expansion and provision of recycling collection service for covered  
9 products, as provided by ORS 459A.890(5) are eligible costs for funding or reimbursement by a  
10 producer responsibility organization.

11 (a) A producer responsibility organization must provide funding for activities requested by local  
12 governments through the periodic needs assessment including, but not limited to:

13 (A) Adding new services,

14 (B) Expanding services, or

15 (C) Adding or expanding recycling depots as needed to provide convenient recycling  
16 opportunities.

17 (b) A producer responsibility organization, or coordinating body, will not provide funding for  
18 expansion that is inconsistent with the finalized terms of expansion between the producer  
19 responsibility organization, or coordinating body, and the local government or a local  
20 government's service provider.

21 (c) Eligible costs under ORS 459A.890(5) ~~and~~ include but are not limited to:

22 (A) Start-up costs for on-route programs including but not limited to:

23 (i) Trucks,

24 (ii) Collection containers, roll carts, or both,

25 (iii) On-board contamination monitoring equipment and software,

26 (iv) New program promotional literature,

27 (v) The process of hiring and training staff,

28 (vi) Staff safety equipment, and

29 (vii) Recycling reload facilities for reloading recyclables, including but not limited to any  
30 equipment necessary for moving, compacting, baling and loading recyclables for shipment for  
31 the recycling reload facility, provided that the facility is necessary, and no other facility is  
32 available or existing facilities are inadequate.

- 1 (B) Start-up and operational costs for recycling depots, including but not limited to:
- 2 (i) Land acquisition,
- 3 (ii) Site preparation or other start-up costs,
- 4 (iii) Collection containers,
- 5 (iv) Signage,
- 6 (v) On-site monitoring equipment,
- 7 (vi) Equipment to move, compact, bale and load recyclables for shipment,
- 8 (vii) Hiring and training staff,
- 9 (viii) Staff safety equipment, and
- 10 (ix) Operational costs,
- 11 (2) DEQ must conduct statewide needs assessments periodically in accordance with ORS  
12 459A.890(8)(a).
- 13 (a) Local governments that request services through the periodic needs assessment will commit  
14 to providing additional services with an agreement with the producer responsibility organization,  
15 or coordinating body, after working with the producer responsibility organization, or  
16 coordinating body, to determine the details to be implemented according to 459A.890 (5)(b).
- 17 (b) Expansion of service commitments will be implemented by the local government and the  
18 local government's service providers, with the producer responsibility organization, or  
19 coordinating body, providing financial and educational assistance to the committed effort during  
20 the first approved producer responsibility program plan.
- 21 (c) DEQ may conduct up to two local government needs assessments for the producer  
22 responsibility organization, or coordinating body, to respond to for each subsequent program  
23 plan according to ORS 459A.875.
- 24 (d) For expansion that is to occur at the beginning of a program plan subsequent to the initial  
25 program plan, DEQ will submit information to the producer responsibility organization, or  
26 coordinating body, from a local government needs assessment 18 months before the current  
27 program plan is due to expire.
- 28 (e) For expansion that is to occur mid-program plan, DEQ may submit information from a local  
29 government needs assessment at least four years before the current program plan is due to expire.
- 30 (f) When DEQ sends a local government needs assessment report to a producer responsibility  
31 organization, or coordinating body, within four years of the current program plan expiration, the  
32 producer responsibility organization, or coordinating body, must submit a program plan

1 amendment to DEQ to address the service expansion interest from the needs assessment within  
2 180 days.

3 (A) Upon completion of a request for expansion of service, any unused advanced funding  
4 provided by a producer responsibility organization, or coordinating body, to a local government  
5 or local government's service provider, for the purposes of funding that expansion request, must  
6 be returned to the producer responsibility organization, or coordinating body, within 60 days of  
7 completion of the expansion request. An invoice detailing how the local government or local  
8 government's service provider used the advanced funding must also be provided.

9 (B) Upon request of DEQ, a local government or a local government's service provider must  
10 demonstrate to DEQ's satisfaction that the funding a local government or a local government's  
11 service provider received was used for its intended purpose.

12 • (4) A local government must identify to DEQ service providers that are authorized to receive  
13 advanced funding or reimbursement directly, as described in this rule, from the producer  
14 responsibility organization, or coordinating body, via a process to be determined by the  
15 department. If for any reason a service provider to the local government changes, the local  
16 government is responsible for informing DEQ of that change.

17 (5) A local government and service providers authorized by a local government to provide  
18 services, that has received funds for expansion or improvements to recycling collection under  
19 ORS 459A.890 and this rule must report to the producer responsibility organization, or  
20 coordinating body, when the expansion or improvements have been fully implemented. A local  
21 government or a local government's service provider authorized by a local government to  
22 provide services must also report the status of implementation to the producer responsibility  
23 organization, or coordinating body, on an annual basis for any funded collection program that  
24 has not been fully implemented, so that the producer responsibility organization, or coordinating  
25 body, may include that information in the annual report required under ORS 459A.887.

26 **Statutory/Other Authority:** ORS 459A.975 and 468.020

27 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

28 **OAR-340-090-0810**

29 **Local Government Compensation and Invoicing**

30 (1) A local government, a local government's service provider, or other person authorized by a  
31 local government to receive payment, may request advanced funding or reimbursement of costs  
32 pursuant to ORS 459A.890.

33 (a) A producer responsibility organization must include in its program plan the following:

34 (A) A method for determining advanced funding or reimbursement amounts under ORS  
35 459A.890(5).

36 (B) A description of the process a local government, a local government service provider or other  
37 persons authorized by a local government to receive payment must follow to invoice the  
38 producer responsibility organization for reimbursement of costs or advanced funding. The

1 information provided may include sample forms for reimbursement or advanced funding  
2 requests.

3 (b) A local government, a local government’s service provider, or other person authorized by a  
4 local government to receive payment may not submit a reimbursement invoice to a producer  
5 responsibility organization, or coordinating body, more than once per month.

6 (c) A local government’s service provider, or other person authorized by a local government to  
7 receive payment, may submit an invoice jointly on behalf of multiple local governments. The  
8 local government-authorized entity submitting the joint invoice must list all jurisdictions  
9 represented and provide documentation from each jurisdiction that approves of the  
10 reimbursement request or otherwise authorizes them to seek funding on the local government’s  
11 behalf.

12 (d) If a local government, a local government’s service provider, or other person authorized by a  
13 local government to receive payment, receives advanced funding pursuant to ORS 459A.890, the  
14 local government must return to the producer responsibility organization that provided the funds  
15 any funds not used for the purposes for which they were provided within 60 days of completion  
16 of the project.

17 (e) If a local government, a local government’s service provider, or other person authorized by a  
18 local government to receive payment submits an invoice to the PRO for payment, the PRO must  
19 pay the invoice within 60 days of receipt of the invoice.

20 (2) For the purpose of determining the population of a local government pursuant to ORS  
21 459A.890(4)(b), a local government may rely on the Portland State University Population  
22 Research Center’s most recent, certified Population Estimate Report, or such other estimate  
23 approved by the department. A local government, a local government’s service provider, or other  
24 person authorized by a local government to receive payment, must use the most recent  
25 population estimate at the time of its reimbursement request.

26 **Statutory/Other Authority:** ORS 459A.975 and 468.020

27 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

28

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## Memorandum

**DATE:** July 25, 2023

**TO:** Oregon Department of Environmental Quality  
Attn: Roxann Nayar/Materials Management  
700 NE Multnomah St., Suite 600  
Portland, OR 97232-4100

**RE:** Oregon Plastic Pollution and Recycling Modernization Act of 2021 Rules -  
Establishing Oregon's first statewide Local Government Recycling Acceptance List,  
Uniform Statewide Collection List, and PRO Recycling Acceptance List Rulemaking

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### Background

Founded in 1991 and with two manufacturing facilities located in Oregon, PakTech is an industry leader in using recycled high-density polyethylene (rHDPE) plastic to create 100% recyclable packaging handles. PakTech has numerous customers located in the United States, whose products are sold in and are packaged using PakTech container carriers. These companies include some of the world's largest food and beverage companies offering a variety of products under many brands. Some customers even use multiple types of PakTech carriers to package products.

PakTech products are made from 100% post-consumer recycled bottle grade HDPE #2 material, which is derived from bottles captured through the consumer recycling system and reused to provide a second life for the underlying material. This reduces the need to produce new plastic and it creates a circular model in which the plastic is infinitely recyclable. This is especially true given PakTech products maintain bottle-grade characteristics and integrity, making it suitable to be collected and recycled again and again alongside HDPE bottles collected for recycling.<sup>1</sup> Based on a recent study conducted by the Sustainable Packaging Coalition (SPC), 87% of the U.S. population has access to recycling HDPE #2 Bottle Grade material.

Beyond promoting these infinitely recyclable HDPE products, PakTech has further embraced sustainability in every step of its product lifecycle yielding myriad of environmental benefits. When compared to generic counterparts and alternative packaging products, PakTech's rHDPE handles are associated with significantly

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<sup>1</sup> By comparison, paper- and fiber-based packaging alternatives are often more difficult to recycle (e.g., when the material becomes wet or otherwise compromised) and are only capable of being recycled a limited number of times.



lower rates of potential impact related to human health particulate air (80% less), smog air (50% lower), primary non-renewable energy demand (approximately 33% lower) and global warming (56% lower).<sup>2</sup>

As explained herein, PakTech’s products are sortable and recyclable such that DEQ should include rHDPE handles and similar packaging on the Local Government Recycling Acceptance List. Such a decision is not only consistent with data and the DEQ’s mission under the Recycling Modernization Act, it also furthers (and modernizes) recycling across Oregon without an adverse effect on downstream materials utilized in the recycling lifecycle.

### **Information on Material Used and its Sorting Ability**

PakTech’s products are wholly made of bottle-grade recycled material, which is the same rigid, post-consumer recycled HDPE as the beverage containers often stored or transported using PakTech products. PakTech products are made with fully recovered materials and are themselves fully recyclable, creating a fully virtuous cycle making beneficial use of existing HDPE and reducing the manufacture of new plastic. This consistency allows for the public to easily recycle PakTech beverage handles associated product containers via curbside collection. Indeed, curbside on-route recycling of PakTech products is already available to the general public in a number of locations, including Colorado, New York City, California, Vermont, Oklahoma, Minnesota, and Tampa.

PakTech appreciates DEQ’s acknowledgement of the high recyclability of canned beverage handles and HDPE lids alike in part one<sup>3</sup> of its recommended rule concept for recycling material acceptance lists. Indeed, this HDPE composition is an important distinction from PET and PP plastic, which Oregon’s commingled facilities do not currently accept.

That being said, DEQ’s contemplated rulemaking presently rests on a number of assumptions about PakTech’s products that would produce a result—i.e., exclusion from the uniform statewide collection list—that will harm DEQ’s recycling and environmental goals instead of furthering them. These assumptions are belied by available data such that we write to urge DEQ to change the designation of PakTech’s products to make them available for curbside and on-route collection via the statewide collection list. At present, DEQ proposes to include PakTech products on the PRO Recycling Acceptance List. This is based largely on an unfounded assumption that the “flatter” shape of PakTech products create sorting challenges.<sup>4</sup> This ignores available data to the contrary; and in any event, DEQ’s contemplated rulemaking timeframe coupled with DEQ-requested testing underway by PakTech would unfairly and arbitrarily prejudice PakTech pending the outcome of those studies.

The data clearly supports the sortability of PakTech products. In May 2022, Bio Region Technologies conducted a materials test of HDPE beverage can holders at the Van Dyk Recycling Solutions headquarters in Norwalk,

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<sup>2</sup> PakTech [Lifecycle Analysis Summary Report](#) (2023, March)

<sup>3</sup> State of Oregon Department of Environmental Quality (2022, December). *Additional Details on Recycling Material Acceptance Lists, Part One*.  
<https://www.oregon.gov/deq/rulemaking/Documents/Recycling2023m4BP.pdf>

<sup>4</sup> State of Oregon Department of Environmental Quality (2022, December). *Additional Details on Recycling Material Acceptance Lists, Part Two*.  
<https://www.oregon.gov/deq/rulemaking/Documents/Recycling2023m4RC1.pdf>

Connecticut to determine the efficacy of HDPE recognition and sorting by material recovery facility (MRF) machines. In conducting this analysis, a variety of factors were interchanged using the state-of-the-art, purpose-built system at the Van Dyk Technology Center.<sup>5</sup> This unique testing laboratory was created for the purpose of allowing customers, researchers, consultants, and others. in the recycling and solid waste industries to “test sorting different materials using different machines found in recycling facilities” and to mimic various functions found across a diversity of sorting plants so that interested parties can “recreate MRF scenarios.”<sup>6</sup> For example, multiple infeeds into the system allow for flexibility around what tests can be run, and conveyors can be run in both directions to recreate different ordering and sorting tasks, ideally recreating virtually any MRF process.<sup>7</sup>

To further standardize the material testing, researchers used the Association of Plastic Recyclers (APR) sortation guidelines for NIR, metals, size and color, which are based on laboratory-scale representations of the most used collection and MRF processes and leverage four benchmark tests: Near infra-red NIR Sortation Protocol, Size Sortation Protocol, Metal Sortation Protocol and Color Sortation Protocol.<sup>8</sup> Each of these benchmark methods assumes that test materials are comingled recyclables collected curbside and transported accordingly to an MRF.<sup>9</sup> Ultimately, the results of this May 2022 study at the Van Dyk Center revealed that white, dark color and off-white HDPE can holders resulted in between a 93-99% successful recovery rate.<sup>10</sup>

While this test leveraged TOMRA Autosort technology, which may not be available to all MRFs, researchers with the Van Dyk study interchanged the sorting unit’s NIR sensor configuration for different materials testing in order to mimic and recreate a variety of on-the-ground MRF scenarios. These results are consistent with the detailed explanation for “natural and colored” HDPE plastic bottles and jugs in DEQ’s recommendations for Local Government Recycling Acceptance List found in Rule Concept One. Further, DEQ reasons their inclusion of HDPE “natural and colored” on the local government acceptance list with the fact that pigmented HDPE bottles and jugs are already being sorted successfully by Oregon’s existing MRF infrastructure and are “excellent candidates for optical sortation.”<sup>11</sup>

DEQ has formally expressed<sup>12</sup> that the Local Government Recycling Acceptance List includes natural and colored HDPE plastic bottles and jugs because these products are “excellent candidates for optical sortation” and are already being sorted successfully by Oregon’s existing MRF infrastructure. Similarly, interchangeable optical

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<sup>5</sup> Swimmer, J. (2022, June). *Van Dyk Technology Center, Materials Test* [Assuming we include test documents with letter submission].

<sup>6</sup> Swimmer, J. (2022, June). *Van Dyk Technology Center, Materials Test* [Assuming we include test documents with letter submission].

<sup>7</sup> Ibid.

<sup>8</sup> The Association of Plastic Recyclers. *APR Design Guide. Sortation: NIR, Metals, Size, Color.*  
<https://plasticsrecycling.org/sortation-nir-metals-size>

<sup>9</sup> Ibid.

<sup>10</sup> Swimmer, J. (2022, June). *Van Dyk Technology Center, Materials Test*

<sup>11</sup> Ibid.

<sup>12</sup> State of Oregon Department of Environmental Quality (2022, October). *Rule Concept: Recycling Material Acceptance Lists, Part One.* <https://www.oregon.gov/deq/rulemaking/Documents/Recycling2023m3RC2.pdf>

sensors used in the Van Dyk study successfully sorted the white, dark color and off-white HDPE can holders, supporting similar data that the average MRF can detect and sort pigmented PakTech products.

The APR size sortation protocol leveraged in the Van Dyk study also addresses DEQ's assumptive reasoning that the flat shape of beverage container handles will inevitably create sorting challenges. The APR size sortation protocol standard examines sorting potential for articles with at least two dimensions (or flat materials) and are less than two inches to determine if a plastic article of this size and shape would correctly pass over a screen comparable to one used in a production facility.<sup>13</sup> The high recovery rate of HDPE can holders from the Van Dyk study indicates that, overwhelmingly, PakTech's product holders successfully passed through various screens.

Following previous conversations between PakTech and DEQ regarding the Department's concerns that flat-shaped products will mistakenly find their way to the fiber line, PakTech pursued another, more informal test conducted at Pioneer Recycling in Oregon. The results of the Pioneer testing revealed that a majority of PakTech handles (65%) that were deposited in the front end of the processing system made it to the container line and were successfully diverted away from the fiber stream altogether. The remaining 35% of PakTech handles that ended up on the fiber line were detected by the optical and manual sorters and were properly separated into residual output. After this sorting, there were no indications that any handles remained in the fiber stream after final sortation, thus avoiding contamination of the fiber stream. This demonstrated that even if some handles do advance to fiber lines, optical and manual sortation systems will identify and divert such material accordingly. The risk of contaminating other recycling lines is negligible, if a risk exists at all; and this further supports PakTech's inclusion in the local government recycling acceptance list.

### **Rulemaking Concerns and Proposed Solution**

One of the primary goals of the Recycling Modernization Act of 2021 is to make recycling easier for the public while reducing environmental degradation. The bottle-grade composition of PakTech's beverage packaging containers allows for consumers to easily recycle the product along with the containers they hold via curbside collection. Under ORS 459.015 (1)(d), it is in the best interest of the people of Oregon to extend the useful life of solid waste disposal sites and encourage the recycling and reuse of materials while decreasing potential public health and safety impacts associated with the operation of disposal sites. Leaving HDPE package handles off the Local Government Recycling Acceptance List, which includes the companion held beverage containers, will create public confusion and ignores proven data referenced earlier, thereby arbitrarily omitting PakTech from this list.

The environmental benefits and circular economy associated with PakTech's bottle-grade HDPE packaging product is beyond reproach.<sup>14</sup>

Moreover, at the request of DEQ, PakTech is currently in the process of undertaking further testing in conjunction with Circular Matters and Cascadia Consulting Group to further prove its recyclability at MRFs in

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<sup>13</sup> The Association of Plastic Recyclers.(2018, July) *APR Design Guide. Size Sorting in the Plastics Recycling Process.* <https://plasticsrecycling.org/images/Design-Guidance-Tests/APR-RES-SORT-3-size-sortation-resource.pdf>

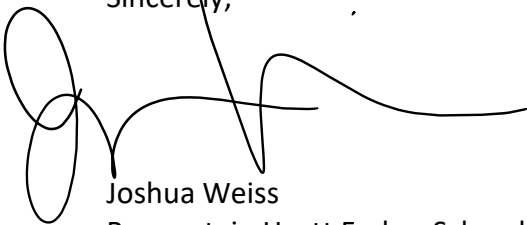
<sup>14</sup> PakTech [Lifecycle Analysis Summary Report](#) (2023, March)

Oregon. Understandably, the timing of this third-party analysis is outside of PakTech’s control; but PakTech has enthusiastically supported DEQ’s specific request for additional data in this respect. DEQ has even acknowledged that this analysis will likely provide additional data useful to evaluating PakTech’s role in modernizing Oregon’s recycling culture and industry. More specifically, in its Rule Concept, Part Two, DEQ stated that “If subsequent testing reveals that the material can be effectively sorted at Oregon MRFs, PROs could propose adding them to the Uniform Statewide Collection List via the mechanism provided in ORS 459A.914(4)(b).”<sup>15</sup> Given that the PakTech HDPE package handle is part of a trial research study with Circular Matters and Cascadia Consulting Group and is limited in duration and area, pursuant to ORS 459.914 (6), we respectfully request that DEQ place HDPE package handles on the Uniform Statewide Collection List in the interim. If the ongoing study reveals that PakTech’s products do not meet statutory sorting and material requirements, DEQ can then remove the product from the Uniform Statewide Collection List. The data supports PakTech’s recyclability to date; the assumptions leading to PakTech’s exclusion from that List are illusory; and PakTech is confident that this latest round of testing will further substantiate its recyclability claims. Moreover, the State will suffer no harm given that it retains the ability to adjust its Uniform Statewide Collection List should later data warrant such a change.

In light of all available data to date and the ability to confidently comingle PakTech products with other on-route recycling in other localities, the evidence overwhelmingly supports PakTech’s inclusion in the Uniform Statewide Collection List. PakTech is undergoing DEQ-requested testing to further bolster these claims; but the timing of that study should not prejudice PakTech’s inclusion in the Uniform Statewide Collection List in the interim.

We appreciate your attention to this matter. Should any questions arise, please reach out.

Sincerely,



Joshua Weiss  
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*On Behalf of PakTech*  
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Denver, Colorado 80202  
303.223.1268  
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<sup>15</sup> State of Oregon Department of Environmental Quality (2022, December). *Additional Details on Recycling Material Acceptance Lists, Part Two*.

<https://www.oregon.gov/deg/rulemaking/Documents/Recycling2023m4RC1.pdf>



1025 W. 8th St.  
Azusa, CA 91702  
O: (626) 380-2360  
F: (626) 969-5555

DATE: July 26, 2023

TO: State of Oregon  
Department of Environmental Quality

RE: Plastic Pollution and Recycling Modernization Act  
**Recyclability of #1 PET food packaging and the existence of a responsible end market**

Dear DEQ,

This letter is in response to your request for public comment regarding Plastic Pollution and Recycling Modernization Act. More specifically, we'd like to address **Recyclability of #1 PET food packaging and the existence of a responsible end market.**

Direct Pack, Inc. (DPI) is an Azusa, CA based company and a leader in fully circular thermoformed food packaging. With the recent addition of our second PET wash line on the West Coast we will buy 100 loads per month of recycled PET, 50 of which will be PET thermoform loads from California, Washington, Oregon and Arizona MRFs. Sourcing recycled PET containers from local MRFs, we have already created our own voluntary Extended Producer Responsibility program. In California we are on CalRecycle's SB54 Working Group and in Oregon we attend DEQ meetings to implement your Act.

With Direct Pack's Full Circle business model (attachment 1), we are daily proving that #1 PET food containers are highly recyclable. Our containers already contain post-consumer recycled PET, our customer partners are demanding it in their products, and our MRF partners are happy to collect, sort, bale and sell it to us so we can reprocess it and use it to produce new packaging. With our second Direct Pack Recycling facility, we are doubling our PET reclaiming capacity this summer. We would like to give you more details about our process and products, which have developed quickly since 2019.



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### **DPI's Full Circle business model**

Already in 2008, DPI launched the BOTTLEBOX®, the first brand of PET take-out containers made from post-consumer recycled PET bottles. Since 2020 we operate a full circle business model with our own recycling and reclaiming facility, [Direct Pack Recycling](#). This is now enabling us to use a mix of 80% recycled PET bottles and 20% recycled PET packaging as feedstock for new packaging. In [this video](#) you can see the process from bale of recycled PET to finished product. Being vertically integrated we control every step in-house, and with special technology, we “re-energize” the recycled material to be as good as new. This way, PET is an infinite resource.

Continuously increasing demand for post-consumer recycled PET has led us to build our second Direct Pack Recycling in Mexicali, on the Southern California border. This wash line will be fully operational in August 2023 and is designed specifically to process PET food packaging with labels, food residuals etc. Besides doubling our reclaiming capacity, this will allow us to increase the content of recycled PET packaging in new PET food packaging from 20% to 50%. Our third Direct Pack Recycling will be located right across the street from our Rockingham, NC plant. It will be operational in the first half of 2024 and will increase our processing capacity by another 50 loads per month, effectively tripling our current capacity.

As a testimony to the importance of our full circle reclaiming activities, Direct Pack Recycling has been awarded [two grants](#) from The Recycling Partnership's [PET Recycling Coalition](#) to assist in the construction of our second and third PET reclamation facilities. The Recycling Partnership is a mission-driven NGO committed to advancing a circular economy by building better recycling systems.

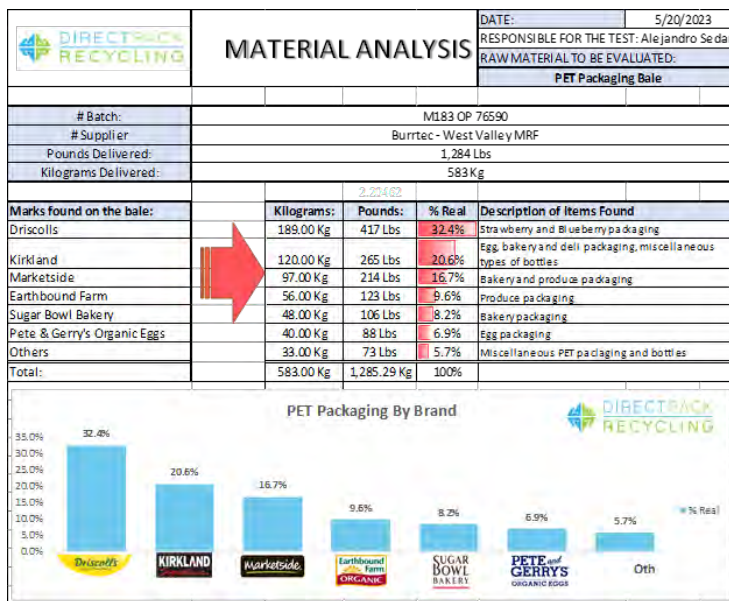
### **Widely Recyclable**

The How2Recycle® label is a US and Canada-based standardized labeling system that clearly communicates recycling instructions to the public. In 2022 and based on the [Polypropylene Recycling Coalition's](#) work, How2Recycle upgraded #5 PP to “Highly recyclable”, which means that over 60% of the US population have access to PP recycling. #1 PET packaging was at 54% in the beginning of 2023, and is expected to reach 60% shortly, with the help of the PET Recycling Coalition's work, and local MRFs and reclaimers like Direct Pack. Adding recycling and reclaiming capacity is a very important step in increasing plastic recycling.

### Customer mandates

Several of our customer partners like Driscoll's, Organic Girl and NatureSweet mandate post-consumer recycled PET thermoforms in their custom products. They have reviewed LCA studies\* and selected recycled PET as the most sustainable packaging, and support full circularity. This clearly contributes to increased market demand for recycled PET thermoformed containers.

Here is an example of the truly fully circular process, where Driscoll's packaging makes up 32.4% of a bale of post-consumer thermoforms, which we use to make new Driscoll's packaging.

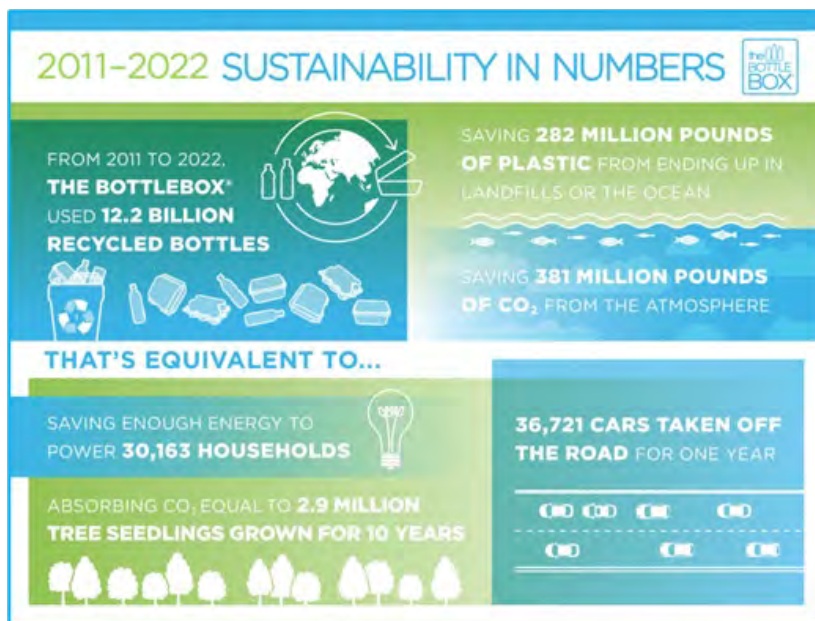


Learn more about the joint efforts in this article from Resource Recycling 2022: [Driscoll's \(and its suppliers\) propel thermform recycling](#). Driscoll's also received the Sustainable Packaging Coalition's [2021 Innovator Awards](#) for using Direct Pack's custom clamshells blending recycled PET bottles and thermoforms. You can read more on our [website](#).

\* Ex. <https://plasticsrecycling.org/images/apr/2018-APR-Recycled-Resin-Report.pdf>

### Direct Pack's post-consumer recycled material in numbers

In the past 11 years, Direct Pack has used over **12 billion post-consumer recycled bottles** instead of virgin material in its food packaging, **reducing greenhouse gas emissions by 380 million pounds**.



Since we started Direct Pack Recycling in 2020, we have purchased and reprocessed over **9.5 million pounds of recycled PET thermoformed packaging**, mainly from MRFs in California and Arizona. That is equal to approximately **138 million pieces of used packaging** that have not ended up in landfill! Our full circle business model has contributed to creating a robust demand for recycled PET thermoforms from local MRFs.

Direct Pack is in the process of getting post-consumer recycled content certification from SCS Global Services.





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## **MRF partnerships**

In less than three years, DPI has created a network of 48 MRF partners in California, Washington, Nevada, Arizona, New Mexico, Texas and Georgia to supply us with loads of recycled PET thermoforms. We trade not only with the three largest waste companies in the country, but also the largest independent MRFs in California like [Athens Services](#) in Los Angeles, [GreenWaste](#) in San Jose and [Recology](#) in San Francisco.

With our first Direct Pack Recycling, we have been buying 40-50 loads per month from our MRF partners. With two wash lines, we will have capacity to process up to 100 loads per month, whereof half would be thermoforms. Each truckload weighs about 40,000 pounds. That means that we will purchase 2 million pounds of thermoformed packaging - equal to 24-25 million pieces of packaging and GHG savings of 2.7 million pounds – every month! – and turn it into new food packaging. Those numbers clearly show the existence of a responsible end market for recycled PET.

## **Market price of recycled #1 PET**

The high market price is an important incentive for the MRFs for collect, sort, bale and sell PET thermoforms. In the four years we have been buying loads of recycled PET containers from MRFs, the price has more than tripled from \$.03/lb. to \$.10/lb. This higher market price is driven by increased demand for recycled PET from all kinds of packaging, bottle, and fiber producers. The increased profitability for the MRFs is enabling them to invest in better technology and equipment, like optical sorters, which increases their efficiency. In attachment 2 is a letter Athens wrote to the State of California already in 2021, describing the success they have had recycling and selling PET thermoformed containers to us. Another example of a satisfied partner is the City of Phoenix, who features our collaboration on their [website](#).

## **Colors**

It is well-known that optical sorters cannot identify parts that contain carbon black, the cheapest and most common black colorant in plastic packaging. As a result, Direct Pack offers a multitude of clear and colored packaging to avoid this problem, including non-carbon black. Clear packaging is the most optimal color to sort, but all colors except carbon black can also be sorted and reclaimed. We recycle all colored packaging in our bales into new packaging with dark colors. From December 2022, [Canada banned](#) packaging containing carbon black, but allows all other colors.

**List of MRFs Direct Pack is buying from in Western US:**

- |                     |                    |
|---------------------|--------------------|
| 1) Anaheim          | 11) Orange         |
| 2) Azusa            | 12) San Bernardino |
| 3) Burbank          | 13) San Diego      |
| 4) City of Industry | 14) Sun Valley     |
| 5) Escondido        | 15) Victorville    |
| 6) Fontana          | 16) Wilmington     |
| 7) Huntington Beach | 17) Santa Rosa     |
| 8) Irvine           | 18) Hayward        |
| 9) Jurupa Valley    | 19) Sacramento     |
| 10) Moreno Valley   |                    |

**Map of Direct Pack's MRF partners in Western US:**





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## Technology and collection developments

In addition to the traditional MRFs, we support alternative recycling models like [AMP Robotics](#). AMP builds, owns, and operates secondary sort facilities that sort mixed plastics from communities without MRFs or from MRFs without optical sorting abilities. With their advanced AI and robotics technology, AMP recovers large volumes of PET thermoforms from mixed plastic bales, which otherwise might have ended up in landfills. We expect to be buying several loads per month of recycled PET thermoforms from AMP as they grow from three to five plants in United States, with two plants in California.

We also support new consumer-oriented collection models like Driscoll's "reverse-vending" machines, and [Replenish](#), who set up collection points at grocery stores for all kinds of recyclables.

## #1 PET is feasibly recyclable and there exists a responsible end market.

Direct Pack and the State of Oregon share a common vision of reduction of waste from single-use articles and expanded polystyrene, making sure all packaging is either recyclable or compostable. Based upon the rapid developments in recycling technology and infrastructure, as well as our own daily activities operating Direct Pack Recycling and using post-consumer recycled PET containers to make brand new, food-safe packaging, we know that #1 PET is feasibly recyclable. Processing facilities are readily available and they have the technical and operational ability, as well as adequate capacity, to recycle the material. And there is a clear and growing market for recycled PET.

Our hope is that this information will give DEQ the facts needed to include #1 PET food packaging on the list of approved recyclable materials. We remain available for questions and/or meetings and can provide more data as needed, and are looking forward to hearing from you.

Thank you,

Andrew Jolin

**Director of Sustainability**


1055 W. 8<sup>th</sup> Street | Azusa, CA 91702

☎ 626 - 380 - 2360 (Office), 707 - 407 - 6787 (Mobile)

Attachment 1  
Direct Pack's Fully Circular Business Model



## Attachment 2, Letter from Athens Services

 Athens Services *Your Zero Waste Partner*

DATE: March 24, 2021

TO: Statewide Commission on Recycling Markets and Curbside Recycling

FROM: Athens Services

SUBJECT: Recyclability of PET Clamshells

Dear Commission,


Athens Services is the largest private recycler in Los Angeles operating 3 MRFs where we recover PET clamshells and sell at a good price. We sell about a load per month of PET clamshells to another Los Angeles-based company that washes, flakes, extrudes and thermoforms back into new PET clamshells for big California brands like Driscoll's, The Cheesecake Factory and others.

Sorting PET clamshells is a natural extension of sorting PET bottles. Our optical systems recognize and separate both PET bottles and thermoforms and we easily pick the clamshells out and bale for market. The market for PET clamshells has become robust due to big brands requiring clamshells suppliers to include recycled PET thermoforms in feedstock for new PET thermoforms.

We hope the Commission takes into account that our wash line partner buys millions of lbs of recycled PET clamshells from a half dozen MRFs in California, and there are several other wash line companies in the market for recycled PET thermoform loads, which has driven the price up to a level that makes recovering PET thermoforms a profitable business.

Please do the right thing and include PET thermoforms on your list so that this market continues to grow.  
If you do not include on your list it will send the wrong message to consumers.

Thank you,



Keng Baloco-Wong  
Product Sales & Logistics Manager  
Athens Services™

14046 E. Valley Blvd, City of Industry, CA 91746  
(888) 336-6100

AthensServices.com



1875 Taylor Avenue  
Louisville, CO 80027  
[www.amrobotics.com](http://www.amrobotics.com)  
888-402-1686

**RE: Notice of Proposed Rulemaking, Plastic Pollution and  
Recycling Modernization Act, Rulemaking #1**

Submitted by:

AMP Robotics Corporation  
Chris Wirth  
Vice President, Corporate Affairs  
[chris@amrobotics.com](mailto:chris@amrobotics.com)

July 27, 2023

Ms. Roxann Nayar  
Oregon Department of Environmental Quality  
Materials Management  
700 NE Multnomah Street  
Suite 600  
Portland, Oregon 97232

**RE: Notice of Proposed Rulemaking, Plastic Pollution and Recycling Act,  
Rulemaking #1**

Dear Ms. Nayar,

**INTRODUCTION:**

AMP Robotics would like to thank Oregon DEQ (“DEQ”) for giving us the opportunity to comment on the first of two rulemakings that will fundamentally change the way Oregon handles the solid waste and recyclable materials generated in the state. We believe this landmark set of regulations will bring about a positive change and enable the state to manage its waste more efficiently, provide new business opportunities for market entrants, and help citizens better understand how the waste they generate impacts their environment and economy.

AMP Robotics is a market leader in supplying the recycling industry with innovative technology solutions that use the power of artificial intelligence to drive the accurate sortation of materials. We have field tested the application of artificial intelligence and robotics under every conceivable materials recovery facility (“MRF”) configuration, weather condition, and operating environment imaginable. With more than 300 systems installed in nearly 90 locations in the U.S. and worldwide, we have successfully proven the application of artificial intelligence in the recycling industry. In 2022 alone, our artificial intelligence platform recognized more than **75 billion** objects in real-world conditions.

The strength of our AI platform, which powers our range of offerings for existing MRFs, also enables us to extend our capabilities to a comprehensive facility solution. Our technology can influence not only sorting processes within the current MRF infrastructure, but the design of AI-powered facilities to increase efficiency and recycling capacity. Our pilot of secondary sortation facilities—we economically process recyclable mixed plastics, paper, and metals sourced from residue supplied by primary MRFs and other material providers—allowed us to incubate and improve our model for new recycling infrastructure. For nearly three years, we have been actively testing the capabilities of AI and automation to direct facility design, with a focus on dramatically lowering the cost of recycling while maximizing yields in terms of both recovery and quality. We are now applying this experience in secondary sortation to next-generation facilities that we design, build out, operate, and service for customers targeting single-stream and secondary feedstocks. We have also received funding from the Bioenergy Technologies Office of the U.S. Department of Energy to develop an artificial neural network for municipal solid waste (“MSW”) characterization—technology we’re in the process of commercializing. Trailblazing a more economical cost structure for waste-to-energy feedstock sortation is the next evolution of our AI-driven innovation efforts.

As a leading provider of cutting-edge sortation solutions for the management of recyclable material and solid waste, we are continuously looking to expand the types of materials that can be recycled and push the boundaries of sortation efficiency. As stakeholders look to craft comprehensive policies that govern the management of recyclables and solid waste, we believe they should consider what recycling and solid waste management will look like 10 years from now—not 10 years ago. We strive to challenge the conventional wisdom and ask all industry participants to consider new ways of looking at the current set of challenges the recycling industry now faces. As such, we believe we are in a unique position to comment on this groundbreaking rulemaking and provide DEQ a different perspective not normally brought out by “traditional” stakeholders. We hope DEQ will receive our comments with this in mind and understand that we offer our expertise and understanding of the recycling industry in the spirit of collaboration and our desire to make this rulemaking as successful as possible.

## **DISCUSSION:**

### *General Comments:*

When Rulemaking #1 was released, we were stunned by its size and breadth. As we were not party to the original discussions that went into the drafting of these rules, deciphering the many complex concepts included in this extensive package was extremely difficult. Rather than promulgate rules on three extensive topics, we would have preferred each of these topics to be discussed in separate and distinct rulemakings, each with their own set of due dates. Prior to the release of this rulemaking DEQ could have released the Plain Language Guide to the Rules **several weeks** before the release of the actual rulemaking. This would have given stakeholders an opportunity to familiarize themselves with the discussion topics in a more orderly way. As it stands, digesting Rulemaking #1 has been difficult, and we are concerned we will provide comments and suggestions that may tread on ground that has already been thoroughly discussed during the pre-rulemaking process. We are confident we are not the only commenters in this predicament and are believe DEQ will spend considerable time and resources responding to such comments. This situation could have been avoided had DEQ broken up this rule into smaller segments.



Unfortunately, as it now stands the burden placed on the stakeholders DEQ relies on for input and feedback will be considerable and this will impact their ability to provide cogent arguments to this very complex policy.

In releasing Rulemaking #2, we ask DEQ to learn from this process and release that rulemaking, as we understand due sometime in 2024, in such a way that makes digesting that set of rules easier and more accessible.

Although the difficulty in deciphering this rulemaking was high, we would like to take a moment and applaud DEQ for all the hard work, time and attention which was put into drafting this rule and look forward to working with you in the spirit of collaboration.

### *ASSUMPTIONS MADE IN THE NOTICE OF PROPOSED RULEMAKING<sup>1</sup>*

The Notice of Proposed Rulemaking (“NoPR”) makes several assumptions in describing the promulgated rules and tries to explain why DEQ took the actions it did when drafting it. We take issue with several of the assumptions made within.

In reading over the NoPR, it is clear that DEQ seeks to support and improve the recycling industry. We applaud them for taking that position and appreciate the concern they have for developing rules that will support the recycling industry. As we mentioned in our opening, we agree with the notion that Oregon stands at a watershed moment in the promulgation of this rulemaking. We understand that due to its nature, the traditional patterns of buying and selling recyclable material may be disrupted. We are concerned this disruption may cause havoc within the recycling industry as the program ramps up. Accordingly, we ask that DEQ be sensitive to this situation and take a “light touch” approach when implementing these rules.

Traditionally, the recycling industry relies on free market forces that impact decisions made by market participants. This leads to post-consumer materials to be deemed either "high value" or "low value," resulting in demand creation and program acceptance in the former and a barrier to program acceptance in the latter. Among those market forces that impact this decision making is the high cost of transportation. We agree with DEQ that in order to change the paradigm the recycling industry currently labors under, such costs will need to be supplemented through assistance such as the governance structures developed through legislative action and supported by this rulemaking process. While such assistance may be needed, we suggest DEQ consider the traditional trucking and hauling routes currently in place for the collection and transportation of curbside materials to the Commingled Recycling Processing Facility ("CRPF") that may be governed by existing contracts entered into by buyers and sellers of recyclable materials. Such contracts until their expiry should take precedence over any new expansion of service that the PPRMA may seek to establish in the name of “efficiency” or streamlining.

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<sup>1</sup> When we make reference to the Notice of Proposed Rulemaking, we refer to the introductory text including the “Statement of Need”, “Fee Analysis”, and “Statement of Fiscal Impact”, pages 1 to 15 of Rulemaking #1. We will include our comments on the actual promulgated rules later in our draft and will clearly indicate where that comment begins.

Of equal importance to transportation costs are the materials that will be collected and recycled. PPRMA goes to great lengths to describe several lists of acceptable materials and how those materials may be collected and transported. As a general rule, *at AMP Robotics we believe that with the proper mix of technology, especially the application of artificial intelligence, a vast majority of materials placed in the curbside bin can be recovered,*<sup>2</sup> and therefore question the need for creating such complexity around what can and cannot be placed in the curbside bin. With the proper application of artificial intelligence, recycling facilities now have the ability to ensure a vast majority of materials flowing on the conveyor can be sorted and recovered.

We appreciate that due to statutory language included in the PPRMA, Rulemaking #1 is restricted to some degree in determining what can and cannot be designated as recyclable. Within this framework, however, we hope that DEQ and the other stakeholders that govern this process develop broad “on-ramps” for materials placed on the Uniform Statewide Collection List (“USCL”) and make those “on-ramps” as barrier-free as possible after proper testing and training of our neural network has been performed. Due to our ability to identify, categorize, and recover a vast majority of materials, there is no reason to have a list that is overly restrictive. DEQ must consider it is a fact of life that consumer packaged goods (“CPG”) companies will continue to use innovative materials to protect and preserve the products they sell. Overall, within their view, the packaging that surrounds the product is a delivery mechanism designed to ensure the product gets to market unscathed. While stakeholders can, and should, put pressure on CPG companies to use materials that have a negligible impact on the environment, such new packaging can present challenges of its own. Such materials, for a host of reasons, may be deemed “non-recyclable” and not made acceptable for curbside recycling using traditional reasons and metrics. As noted earlier, with the proper mix of technology, such materials can be identified, categorized, recovered, and sent to responsible end markets that would readily use them as a feedstock. Should such materials not be placed on the USCL they will inevitably be placed in the trash. Declaring certain materials as “non-recyclable” will create feedback loops that will be difficult to break—materials will be placed in the trash, impeding the ability of that material to be recycled and leading to low access and recycling rates. The only way to break this cycle is to develop a low barrier to entry on the USCL.

The NoPR makes the assumption that shifting costs from the local government to a PRO will lower costs and make recycling of materials easier. We question this assumption as the costs for recycling the materials will remain; there are fixed operational costs in managing a recycling facility that need to be paid, regardless of which “pocket” the funds are drawn from. Simply shifting costs from one entity to another may not bring about the desired results.

With regard to compliance costs and how those costs may impact local governments, we take issue with some of the assumptions made and outcomes predicted due to this rulemaking. DEQ, through its rulemaking process, makes assumptions about how

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<sup>2</sup> An exception to this statement are clearly those materials that should never be placed in a curbside bin such as large pieces of scrap metal, bowling balls, organic waste, etc.

recycling service expansion will impact ratepayers, and in turn, service providers. On this point DEQ states:

*“In most cases any ongoing operational costs that are not eligible for reimbursement by the PRO will likely be recovered through user fees (e.g., garbage bills) as opposed to being an expense to the local government itself.”<sup>3</sup>*

We find this statement surprising and are dismayed that the ratepayer may experience increased costs. While expanding services is a notable goal and in some instances may be necessary to ensure mandated recycling rates are achieved, having the ratepayer—and not the PRO—foot the bill for such expansion runs counter to all of the reasons and explanations given when PPRMA was passed.

Additionally, with an increase in expansion comes an increase in the collection of contamination and low-value materials. The NoPR suggests that due to the way the program is structured, local governments and the public will benefit due to obligations on recyclers and the PRO to ensure such materials are sent to responsible end markets. Additionally, local governments will not incur costs for such expansion due to PRO obligations. We find this curious as in the immediately preceding paragraph, DEQ suggests that the ratepayer may experience costs through user fees for any non-eligible costs. This is contradictory and may highlight inconsistencies that should be addressed. In any event, it will be inevitable that with an increase in service will come an increase in low-value materials and contamination. While the local government may not incur costs due to the increased collection of such materials, the CRPF will be subjected to increased operational costs for handling and processing such material. We are aware of the *Contamination Management Fee* and the *Processor Commodity Risk Fee* included in the PPRMA, and these features are not addressed in this rulemaking. For that reason, we will refrain from commenting further on this issue other than to provide a point of view to DEQ as they prepare Rulemaking #2 and address these fees.

We believe these fees, while enacted with the best of intentions, will not achieve their intended goals. We believe the Contamination Management Fee will incentivize CRPFs to influence their local governments to accept post-consumer materials outside of those on the UCSL in their municipal recycling programs for the sole purpose of creating opportunity to collect more revenue by removing materials that would otherwise never be included in a collection program. With regard to the *Processor Commodity Risk Fee*, we ask DEQ to take into account the extreme volatility of the commodities markets and provide structures that can ensure recyclers receive timely payments. A mandated increase in service will incur operating costs on recyclers that have very little “wiggle room” to carry overhead for long periods of time. Any delay of payment can mean the difference between a processor keeping its doors open or closing down permanently. Such closures will bring hardships to communities and provide additional challenges to the PRO responsible for ensuring materials are processed and brought to a responsible end market. DEQ must keep in mind that, absent the PPRMA, recyclers would not experience these hardships in the first place because the free market would ensure that low-value materials would never be accepted in a curbside recycling program. For this

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<sup>3</sup> Notice of Proposed Rulemaking. May 25, 2023. 7.

reason, timely payments are vital, and we are concerned that providing such payments will bring challenges of its own to the traditional slow pace of government.

In several places the NoPR states that CRPFs will have a more positive fiscal outlook due to service expansion. In one instance it states an additional approximately \$1 million in commodity revenue will be realized due to the materials that are placed on the PRO Recycling Acceptance List.

Specifically, it states:

*“PRO(s) or their contractors will benefit from approximately \$1 million/year in commodity revenues...”<sup>4</sup>*

We find it curious that the NoPR states with such clarity and authority the amount of revenue the PRO or its contractors can make on an annual basis from commodity revenues when the volatility of these markets makes them so unpredictable. Regardless of the economic tests DEQ may apply to determine proposed revenue, it is simply impossible to make such a forecast. Indeed, it is not too much of a stretch to say that market participants who have experienced the volatility of several economic cycles would suggest it is not possible to make such predictions.

And while on one hand the NoPR supplies a rosy outlook for CRPFs due to increased revenue, on the other hand it states these same recycling operators will experience increased costs on the order of “several million dollars higher each year than collection costs would be for a less comprehensive list.<sup>5</sup>” With such a muddled outlook, it is impossible to understand what the actual fiscal impact of the program will be on recycling operators.

As there are several economic assumptions stated throughout the document, we suggest DEQ prepare an accounting style ledger listing all fees, revenue, expenses, etc., along with a “bottom line” figure. Such a ledger would help stakeholders get a comprehensive view of what these expenses and revenues might be. While we know it is not its intention, it appears DEQ may be “burying” the costs and revenue incurred through pages and pages of dense text. We fear such a presentation may provide detractors with ammunition to derail the program and open DEQ to unwarranted criticism.

#### *COMMENTS SPECIFIC TO PROMULGATED RULES*

### **OAR 340-090-0140 Recyclable Material Economic Test**

#### *General Comments*

We believe Oregon is unique in tying the ability to collect curbside material to the economic value of the material. While we understand the intention of the rule to allow

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<sup>4</sup> Notice of Proposed Rulemaking, May 25, 2023. 11.

<sup>5</sup> Notice of Proposed Rulemaking, May 25, 2023. 15

CRPFs a “safety valve” to discard collected materials should the economic value of that material be at 0 or negative, we believe that in a post-PPRMA world, allowing this provision to exist can be dangerous and have unintended consequences.

Based on the traditional slow pace of government we question how DEQ can keep abreast of commodity prices considering the value of material may fluctuate wildly on a daily basis. If DEQ is unable to monitor commodity prices on a daily basis, the determination it may be make on a recyclable commodity may be inaccurate and outdated.

The USCL contains items that may be difficult to recycle and/or have a low commodity value. Managing these items will take considerable time, effort and expense. Being responsible for managing these items, we wonder if the PRO may deem some of these items “non-recyclable” due to low commodity values. Should it be successful in pursuing such a strategy, would the PRO then be responsible for managing those low-value items, or could it just direct it to a landfill and claim that it was “managed”?

We ask DEQ to play out the scenarios and consequences described above and take proper safeguards to ensure such scenarios do not become reality. We suggest that within this section DEQ add language that places a minimum time frame before such low-value items are allowed to be declared “non-recyclable”.

## **OAR 340-090-0650**

### **Performance Standards**

#### *General Comments*

Over the past several years extended responsibility legislation similar to the PPRMA has been passed in states including California and Colorado. In both states, AMP Robotics was involved in stakeholder discussions during the development of legislation. The result of those discussions was the inclusion of language that requires the state or PRO, depending on the legislation, to include an analysis of innovative technologies such as artificial intelligence and robotics and how such technology can improve the state’s recycling programs.

While no such language specifically exists in the PPRMA, we encourage DEQ to include such language through this rulemaking. For the PPRMA to reach its stated goals of reducing marine litter, increasing recycling rates, and bringing Oregon closer to a circular economy, modernization of the state’s CRPFs is imperative. Such modernization should include the addition of innovative sortation technology driven by artificial intelligence. Developing a plan for how best to utilize this technology before the system comes on line would be the best and most efficient way to do so.

Section (1)(e) relates to contamination prevention and management and requires the PRO to develop protocols to minimize the acceptance of contamination. We believe DEQ has the authority through this section to specifically call out innovative sorting technologies such as artificial intelligence.

Specifically, it states:

*Collection services shall be offered and operated in ways that minimize the acceptance of contamination, and that minimize the presence of contamination in outbound materials*<sup>6</sup>.

We are of the opinion that the only way recycling facilities will be able to minimize the presence of contamination in outbound materials is through the use of innovative technology such as artificial intelligence and automation. The underlined section can be seen as a justification for DEQ to develop a report that looks at this technology and how it can best be utilized throughout the recycling system. As mentioned earlier, AMP Robotics is a leader in the development and deployment of such technology. Our systems give CRPFs the ability to sort and screen out contamination early in the sorting process, thereby providing them with myriad options in how to manage such contamination.

### *Specific Comments on promulgated rule*

Section (1)(e) states:

*“Such protocols must include screening and then accepting and managing the material appropriately, rejecting the material or both...”*

Does the above statement imply that by “accepting” or “rejecting” material the PRO is the first owner of recyclable materials that are processed by the CRPF? If so, does that mean the PRO has initial responsibility for the fate of the recyclable material and which responsible end market it may be sent to? In such a scenario, we are concerned that the PRO would be in the position of picking “winners” and “losers” by rewarding certain markets and starving others. It is vital that DEQ ensure that such scenarios do not play out otherwise, the state may experience a significant contraction in the types of markets recyclable materials may be sent to.

DEQ should make clear that such protocols are developed to manage the way the CRPF operates and omit any language that discusses “accepting” or “rejecting” recycling material.

Finally we take issue with the way the word “material” is used liberally throughout the rule. It is used in several different contexts—as contamination, as outbound feedstock, and as items on the PRO recycling acceptance list. We suggest that within this section DEQ clearly define what “material” means and in what context it is being used.

## **OAR 340-090-0670 Responsible End Markets**

### *General Comment*

It is our view that “responsible end markets” depend on demand for well-sorted materials, especially considering the evolving nature of the recycling stream. For recycling facilities

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<sup>6</sup> Underline for emphasis

to meet the challenges of this rapidly changing environment, it will be necessary for Producer Responsibility Organizations to invest in modernizing the current CRPF infrastructure and fund its expansion by opening new facilities.

The breakthroughs that AMP Robotics has made in the introduction of new infrastructure, which can include both primary and secondary MRFs, is helping to expand facility capacity within smaller geographies. With lower population densities, rural communities often do not have the recycling volumes that justify the investment in recovery and sortation infrastructure. However, advanced technology is making small-scale community recycling facilities a reality. In the process, such small scale facilities may become a “responsible end market” and ensure recyclable materials in these regions is managed responsibly.

*Specific Comment about promulgated rule*

Definitions - While the entity being described is a “market,” it is not an “end market”. In reading the definitions, the entities being described are those that perform operations that prepare material to allow a manufacturer to use it in the production of a new product. This is not a “responsible end market” in the sense they do not use the material to create a product that the public can readily use.

As it is currently defined, “responsible end markets” exclude producers and manufacturers that are ultimately responsible for releasing the finished product into the marketplace. By excluding them in the definition, DEQ is relieving them of any responsibility and exempting them of the stringent conditions imposed upon all other entities in the supply chain. We find this ironic as the producers and manufacturers of consumer packaging are ultimately responsible for financing the entire system and have significant responsibilities in other areas of the rule such as educating the public and funding activities to be performed by local governments.

We suggest that DEQ include producers and manufacturers in the definition of “responsible end market”. Defined this way, we can be assured that the material is ultimately being used in a responsible way.

Section (2)(D) - Achieving Adequate Yields

In reviewing this section we were confused by the requirement for recycled material to achieve 60 percent. We believe this section should be more clear.

Our question is as follows:

- Does the “60 percent” apply to each individual CRPF, in which case:
  - Does the “60 percent” apply to each truckload of material that is collected from the curb, or;
  - Does the “60 percent” apply to the entire output of finished commodity bales produced by the CRPF?

-OR-

- Does the “60 percent” apply to the manufacturer that uses the materials that contained recycled feedstock, in which case:
  - Does the “60 percent” apply to each individual item produced by the manufacturer, or;
  - Does the “60 percent” apply to the total output of items produced by the manufacturer?

We believe the regulations should be clearer in stipulating such thresholds and upon which entity they apply.

#### Section (5) - Definition of “Practicable”

Section (5)(a)(D) specifically states:

*“Offering to buy or take ownership of materials to directly control their flow if materials are not already directly under the control of the producer responsibility organization.”*

We ask DEQ to more clearly define and state what the phrase, “or take ownership to directly control” means. Can this phrase be interpreted to mean that the PRO can just take ownership of recyclable material without compensating a CRPF? Otherwise why would DEQ split the phrase and use the word “or” between “buy” and “take”. We have deep concerns if this is the case.

Further, this section adds significant ambiguity as to the ownership of recyclable materials being processed by the CRPF. To clear up this ambiguity, we ask DEQ to state which entity owns the recyclable material and at what stage and conditions that ownership is transferred. We are concerned that situations may arise where more than one party may claim ownership of the material under the PPRMA and will have to go through arbitration or the legal process to make such determinations.

#### **OAR 340-090-0710 Proprietary Information**

##### *General Comments*

Although the Uniform Trade Secrets Act applies in protecting trade secrets, we ask that DEQ specifically develop procedures to ensure any private entity that is sharing information with either the PRO or DEQ is aware that the Act applies.

There are many companies that may be eager to engage with DEQ or the PRO but are not sophisticated enough to understand under what conditions the Act would apply. This will ensure such companies are aware and have taken steps to safeguard against an accidental release of information.



**OAR 340-090-0790**  
**Expansion of Service**

*General Comments*

We question why this section only applies to recycling depots and not other facility types such as secondary sortation facilities or primary CRPFs. In areas of the state, especially in rural areas, that lack recycling service, the addition of a secondary sortation or mixed waste processing facility may be appropriate to manage the region's recyclables.

**CONCLUSION:**

We thank DEQ for the opportunity to comment on this rulemaking and stand ready to answer any questions that may arise from our feedback.

July 26, 2023

David Allaway  
Senior Policy Analyst  
Oregon Department of Environmental Quality  
Materials Management Program  
701 NE Multnomah Avenue, Suite 600  
Portland, OR 97232

**Subject: Response to Plastic Pollution and Recycling Modernization Act, Rulemaking 1**

Dear Mr. Allaway:

Sustana Fiber is proud to provide sustainable recycled fiber solutions for customers throughout North America. As recycling continues to evolve with new technologies and new policies, including extended producer responsibility, we are excited for the future of recycled fiber.

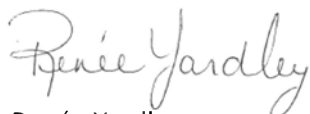
We have been impressed with the rigorous process the Oregon Department of Environmental Quality has put into place to draft the Plastic Pollution and Recycling Modernization Act, Rulemaking 1. Of special interest to us is the materials included on the Uniform Statewide Collection List (USCL).

Sustana Fiber processes 2.2 million pounds of recycled material every day and we believe collecting a wide range of fiber-based packaging is critical to our future. We were pleased to see the inclusion of polycoated cartons, aseptic cartons and polycoated paper cups on the USCL as we regularly recycle these products. We also wanted to offer our support for the inclusion of paper cans with metal ends.

In late 2021 we partnered with Sonoco and Kellogg's to trial the recycling of paper cans with metal ends at our De Pere, Wisconsin facility. During this trial we confirmed that through the pulping process, the fiber components separate from the non-fiber components and the fiber could be made into usable paperboard for new products (learn more here: <https://www.sustanagroup.com/newsroom/sustana-fiber-partners-with-sonoco-and-kelloggs-to-prove-recyclability-of-paper-containers/>).

As we continue to work with partners in the fiber supply chain, we believe with the right collect systems in place, fiber recovered from recycled fiber-based packaging is a sustainable alternative to landfilling with environmental and economic benefits.

Sincerely,



Renée Yardley  
Senior Vice President, Sales & Marketing

# Umatilla County

Community Development Department



COMMUNITY &  
BUSINESS  
DEVELOPMENT

July 26, 2023

LAND USE  
PLANNING,  
ZONING AND  
PERMITTING

Oregon Department of Environmental Quality  
Attn: Roxann Nayar/Materials Management  
700 NE Multnomah St, Suite 600  
Portland, OR 97232-4100

CODE  
ENFORCEMENT

SOLID WASTE  
COMMITTEE

Re: Public Comments on SB 582  
Recycling Modernization Act (RMA)

SMOKE  
MANAGEMENT

Dear Ms. Nayar,

GIS AND  
MAPPING

This letter is being submitted as public comment for the rulemaking process to implement the Plastic Pollution and Recycling Modernization Act of 2021, as outlined in Senate Bill 582.

RURAL  
ADDRESSING

LIAISON,  
NATURAL  
RESOURCES &  
ENVIRONMENT

The Umatilla County Solid Waste Advisory Committee met on July 25, 2023 and voted unanimous approval to submit these comments, in collaboration with Commissioner Dan Dorran, Chair of the Umatilla County Board of Commissioners. Please find attached to this letter the comments submitted by Oregon Refuse and Recycling Association (ORRA) on the rulemaking process and implementation of the RMA. Umatilla County would like to go on record as expressing support for ORRA's comments that were thoroughly researched and well written as their expression of continued concerns and clarifications for the successful implementation of the RMA.

PUBLIC TRANSIT

Umatilla County continues to be open and willing to be a part of this ongoing process as DEQ moves forward to reach successful implementation of SB 582 and RMA in 2025. We are available for further conversation and can be reached at (541) 278-6300 or [gina.miller@umatillacounty.gov](mailto:gina.miller@umatillacounty.gov). Thank you for the opportunity to provide comment.

Best regards,

Dan Dorran, Chair  
Board of Commissioners

Michael R. McHenry, Chair  
Solid Waste Advisory Committee  
RAC #1 member

Enc: ORRA public comments - RMA



## OREGON REFUSE & RECYCLING ASSOCIATION

July 25, 2023

Ms. Roxann Nayar, Oregon DEQ  
700 NE Multnomah ST #600  
Portland, OR 97232

Via email only: [Recycling.2023@deq.oregon.gov](mailto:Recycling.2023@deq.oregon.gov)

RE: Comments on RMA RAC #1 Notice of Proposed Rules

Dear Ms. Nayar:

Thank you for the opportunity to offer comments on the Notice of Proposed Rulemaking to clarify and implement the Plastic Pollution and Recycling Modernization Act of 2021 (RMA).

Oregon Refuse and Recycling Association (ORRA) is the statewide trade association representing solid waste management companies in Oregon. ORRA members collect and process most of Oregon's residential and commercial refuse and recyclables, as well as operate material recovery facilities, compost facilities, and many of Oregon's municipal solid waste transfer stations and landfills.

Two ORRA members – Mike McHenry (Pendleton Sanitary Service) and Jeff Murray (EFI Recycling) – served on the first Rulemaking Advisory Committee (RAC). I served on the RAC as well, in my capacity as ORRA's Executive Director and CEO. In addition to the three ORRA-related people serving on the RAC, ORRA has a larger group of members dedicated to reviewing the work of the RMA RAC. The three ORRA-related people serving on the RAC each has over 30 years working on these issues, and the larger ORRA group has similar years of experience.

Most of the members of the larger ORRA group actively participated in conversations and worked to develop the RMA since the convening of the Recycling Steering Committee to address China's National Sword policy. ORRA's group of experts has devoted many hours to reviewing documents, discussing possible outcomes, and offering feedback and solutions, both during RAC meetings, formally submitting comments, and in multiple meetings with DEQ staff.

ORRA appreciates the work that DEQ has done, and is doing, and recognizes that many other interested parties are also working hard to implement the RMA. We all have the same goal – implementing a complex law designed with shared responsibility at the forefront, to improve the sustainability and resiliency of Oregon's recycling system. ORRA offers these comments in the spirit of that shared goal, and we look forward to continuing as a partner in this effort.

ORRA previously submitted comments on February 1, March 24, and April 18, and they can be found on DEQ's website under "Written Comments" for the January, March, and April meetings at: <https://www.oregon.gov/deq/rulemaking/Pages/Recycling2023.aspx>. ORRA incorporates those comments by reference into this document. These comments, dated July 25, 2023, include issues of ongoing concern that are not adequately addressed or resolved in the proposed rule, as well as suggested amendments to the draft rule itself.

ORRA is commenting on the following topics in this document:

1. Process and timing concerns.
2. How to respond to those concerns to achieve success.
  - A. Acceptance Lists and the USCL.
    - a. Trial or Research Program and SIMs.
  - B. Responsible End Markets.
3. Other Comments.
  - A. Potential cost impacts.
  - B. Indirectly Affected Parties
4. Track Changes Rule Attachment, with Amendment Explanations and Table of Contents.

**1. Process and timing concerns.** If unchecked, process and timing concerns may jeopardize the successful implementation of the RMA. During the RAC process, ORRA and other RAC members noted that the RAC process moved too fast for well-considered input. The pace of the RAC meetings and the amount of complex, detailed, and sometimes highly technical materials the RAC was expected to review, digest, and understand in advance of the meetings, in order to have thoughtful discussions, combined to threaten the value of the RAC's input. This led to frustration with the process, an ongoing concern throughout the RAC process.

The speed of the process and the RMA's statutory deadlines led to DEQ's approach of standing up multiple projects all at once. Then, and now, ORRA's concerns revolve around the establishment of the Recycling Acceptance Lists, in particular the Uniform Statewide Collection List (USCL), and timing of action required of Producer Responsibility Organizations (PROs), Local Governments (LGs) and their service providers, and Commingled Recycling Processing Facilities (CRPFs). This group of concerns is foundational to successful implementation, and ORRA maintains the approach to rulemaking on these topics is "out of order."

A critical example of process and timing concerns is the Local Government Needs Assessment Survey. This survey was released by DEQ in January 2023 with an initial survey return deadline of March that got extended to mid-April. Local government compensation is a core element of the first rulemaking. It was extremely difficult for local governments and their service providers to know how, and which, services would need to be expanded or enhanced without certainty on elements such as which materials will be included on the Local Government, USCL, and PRO acceptance lists, and convenience and performance standards for depots.

These elements, essential to understanding and responding to the survey, were not scheduled for EQC consideration and adoption until Fall 2023. Despite that timing, if local governments did not submit the survey by the April deadline, the consequence was they would not be eligible for PRO funding until 2027, and they would not be granted the grace period for extending implementation of the new requirements beyond July 1, 2025. While ORRA members worked closely with local government partners to ensure a high response rate to the survey, the timing of being required to submit the survey prior to decisions being made on foundational elements of the RMA will likely have ramifications for successful implementation of the RMA.

ORRA's position is that the correct order would have been first to establish Recycling Acceptance Lists and the USCL. Next, LGs would perform their Needs Assessment to determine requirements

based on the materials to be recovered, and CRPFs would determine requirements and potential PRO funding to recover the materials. Finally, PROs would know the potential costs based on all of this information in order to establish fees that producers will pay in support.

Instead, the Acceptance Lists won't be set until these rules are adopted in November 2023; the LG Needs Assessment deadline has already passed; the CRPFs will be required to accept all USCL materials on July 1, 2025, regardless of readiness to recover the materials; the PROs are expected to complete three year budgets by March 2024 with little information to do so; and PRO funding will not be available until after the program launches in July 2025.

**2. How to respond to concerns to achieve success.** ORRA understands the statutory deadlines DEQ is required to meet, and opinions may vary on the best approach of how to get there. DEQ has taken a step toward acknowledging some of these difficulties by offering a transition period proposal which allows some flexibility in enforcement through the end of 2027. This will assist, at least partly, but more must be done to make sure the RMA launches successfully. ORRA does not have solutions for all of the concerns noted, but ORRA does offer more discussion and solutions for some of them.

ORRA shares in the aspiration of the RMA: that Oregon continues to be a leader and environmental steward in creating a transparent system that fosters environmentally beneficial recycling, beginning with how materials are labeled and packaged, to the choices consumers make, to ultimately getting materials to responsible end markets. ORRA offers amendments to these rules with the goal of ensuring that changes to Oregon's recycling system are made in a way that is transparent and truthful so that the public has a high level of confidence and trust that what we are collectively saying can be recycled is, in fact, recycled responsibly.

**A. Acceptance Lists and the USCL.** A significant concern during the RAC process was the lack of adequate time for evaluation of the proposed recycling materials acceptance lists, and in particular, the USCL – the RAC never finished discussion about items proposed for the USCL at any RAC meeting, even after an additional meeting was added to the schedule. This is the result of having too much to consider in too short a timeframe. However, that does not change the fact that the USCL is foundational to implementing the RMA – it is the statewide recycling list, the heart of the program for Oregonians.

ORRA raised concerns at every possible meeting about the USCL from the time it was introduced at the November 9, 2022, meeting. DEQ consistently responded that changes could occur during discussions, or in these draft rules, but from that entire list, it appears that in the Recycling Acceptance List Fact Sheet issued as a supporting document to the proposed rules, the only two changes that have been made since it was introduced are dropping LDPE and adding “caps.”

**ORRA has previously and repeatedly commented that four types of materials on the proposed USCL list are not ready to be included on the inaugural list: paper cans; cartons and aseptics; nursery packaging; and cups.** Before they are added, customers must be able to identify them, CRPFs must be able to sort them, and there must be stable, available markets for them. These four materials are marginal, or emerging at best, and while the quantities are admittedly small, the potential for the materials becoming contamination is great, given current limitations on technology as well as market issues.

DEQ stated at the January 11 RAC meeting that if members have evidence to dispute why a material should not be added to an acceptance list, to offer it. However, ORRA contends that is the role of the DEQ, or of a process to prove a market – noting the existence of markets is not the same as providing evidence that those markets will be accessible to Oregon’s programs in 2025.

ORRA’s position is that neither DEQ, nor RAC members, have evidence to support the USCL list as recommended by DEQ. However, during the RAC, ORRA did attempt to get answers to some concerns related to aseptics and cartons, in order to make determinations about materials that will be sorted and marketed from Oregon. In February 2023, ORRA initiated discussions with the Carton Council and then facilitated a Carton Council consultant’s tour of every Material Recovery Facility (MRF) in Oregon, as well as some that are in planning stages, to look at capacity, sorting needs, and potential recovery of aseptics and cartons, contemplating that incoming aseptics and cartons will increase at MRFs if they are added to the USCL.

Tours and discussions were completed over the week of May 15 with nine facilities, and three more were willing to meet remotely to accommodate the consultant. As recently as last week, ORRA asked the consultant whether there is any information available from that effort that could be referred to in this comment; ORRA did not receive any information, and the participating MRFs have all responded that they have not received a report with the findings. Therefore, ORRA is still unable to verify any new information for these materials, despite this effort.

**a. Trial or Research Program and SIMs, p.174, l.9 to p.175, l. 11 of ORRA’s “track changes” rule.** During the RAC process, ORRA first recommended a phased-in approach to adding these four marginal or emerging materials. Next ORRA suggested a pilot project. Finally, ORRA advocated to use the trial or research collection program option as established at ORS 459A.914(6), in order to prove the materials are ready for adding to the USCL. All of these recommendations have been made with the same goal: ORRA is looking for a reasonable, practical way to address the issues around the timing of RMA implementation. If we are designing for a program that starts in 2025, what must happen to ensure any material added to the acceptance list can be recovered by then? ORRA, as the rest of the RAC and DEQ, has been working in good faith looking for positive outcomes in a modernized system, and ORRA recommends this is the best approach at this point to achieve successful outcomes.

The trial or research program at ORS 459A.914(6) states:

- (6) A material that is not identified for collection as part of a commingled recycling program on the uniform statewide collection list may be collected as part of a commingled recycling program if:
  - (a) The material is collected as part of a trial or research program;
  - (b) The trial or research program is of limited duration; and
  - (c) The trial or research program is conducted in a limited area.

Adopting the trial or research option will allow all of Oregon’s recycling system to study the materials in a limited area (but one large enough to provide good data) in order to determine if they meet the criteria to be added to the USCL. The test area is the metro-region, where customers are currently able to put two of the four marginal materials in their curbside collection programs (paper cans and cups would be new). Allowing the materials to continue commingled collection in the trial or research

program keeps from disrupting those customers, while allowing time to confirm whether the items meet the criteria and can be collected in the USCL. Also, as other items may be tested in the future for addition to the USCL, this would provide the opportunity to “test the test” now.

ORRA is not saying "no" to materials; we are saying let's see how it works, and if it doesn't, let's fix it, and recognize that getting it right takes time, and money, and a process. ORRA does not believe in forecasting material acceptance list changes based on where we hope to be in the coming years - we have to build the bridge to get there from where we are now.

In conjunction with the trial or research program, ORRA will also request that DEQ designate the four noted items as Specifically Identified Materials (SIMs) pursuant to ORS 459A.917. This designation will focus extra attention on the materials to ensure they are successfully recovered. During the RAC process, DEQ stated that such designations would be expected to occur in Fall 2023, in order to allow the PROs time to plan for, and address how to manage the SIMs before submitting PROs plans in March 2024, and before the program begins in July 2025.

There are many benefits to taking this two-pronged approach of the trial or research program and SIMs designation:

1. As noted, those materials already on the metro-area program lists could continue to be collected, and the new materials could be added. The time for the trial program would be limited. This would meet the statutory requirements of limited area and limited duration.
2. This pathway would give these marginal or emerging materials the PROs support required as SIMs to prove that they are ready to be on the USCL.
3. There would be an opportunity for processing to get up to speed to meet the new requirements – whether sites add processing equipment, add sorters, or move materials to secondary processing.
4. Markets that at this point are still unproven would be tested in a practical, real world way, instead of the theoretical, academic approach of what should work based on what we have been told in this rulemaking. Do the promised markets really function? Do the yields meet the goals? Will Oregonians' materials be responsibly recycled?
5. Proving up what we have been told will meet another vitally important element of the RMA – developing a transparent program that builds the confidence of Oregonians in the recycling system.
6. If the SIMs are successful, the USCL could be updated to include them, as the RMA provides for on-ramps to do that. The uniform, statewide list would be in place and collected by January 1, 2028.

Adopting a trial or research approach is critical to restoring Oregonian's confidence in our recycling system. ORRA has requested and continues to request that this should be the process for all marginal and emerging materials, the protocol by which materials are reviewed to add to the USCL in the future. This may also be a viable process for removing materials from the USCL, as resiliency requires both on ramps, and off ramps, for materials, and a way to test them as objectively as possible. Politics should not determine lists.

**C. Responsible end markets – p.186, 1.3-28 of ORRA's “track changes” rule.** The next recommendation ORRA offers to respond to how to overcome concerns to achieve success is how



responsible end markets are defined. Responsible end markets are an important component to the RMA – all system participants want to ensure they are telling the truth when they tell customers that materials are being recycled. Sharing honest information about recycling outcomes will allow all of us to restore public trust in Oregon’s recycling system.

The question is how far regulation of the RMA should extend to determine what a responsible end market is, and at what point that regulatory obligation is satisfied. **ORRA recommends that the obligation is satisfied at the point where the recycling material is initially converted from its original form to a recycled feedstock – beyond that point, the material is no longer a waste, it is a commodity.** The exceptions are for plastics (other than PET, Polypropylene and HDPE bottles), as well as Specifically Identified Materials (SIMs); they should be followed to final disposition due to the volatile nature of those immature markets.

Except for the plastics as noted and SIMs, ORRA recommends ending RMA oversight at the conversion point because the environmental impacts occur when converting the material into recycled feedstock. The conversion process removes and disposes of any remaining contaminants, and produces a recycled feedstock comparable to virgin material to be used in a manufacturing process. The RMA intended that this conversion, including any waste generated from it, would be managed in an environmentally responsible way, and verifying that can be accomplished by use of a third-party audit or similar.

Asking recycling system participants to go beyond “recycled feedstock” to determine responsible end markets adds another level of cost as well as complexity that should not be required. For those who wish to follow the trail to the final disposition, ORRA recommends using a certified third-party auditor, such as Orion Registrar, Inc., or Perry Johnson Registrars, Inc. Those so inclined may wish to follow the process to final disposition in order to showcase circularity or for some other reason – while this is of interest, it should not be a requirement for all Responsible End Markets.

For plastics other than PET, Polypropylene and HDPE bottles, as well as SIMs, ORRA agrees with DEQ’s original approach, following the material from collection to final conversion to a new product containing recycled content. The reasons to continue following these plastics and SIMs to final disposition are that the collected materials and the process to convert them to recycled feedstocks are immature and less stable than the long term, traditional recycled feedstocks and markets, and the public is distrustful of claims that they are in fact recycled. Once a material has a track record of proven recycling, then DEQ should consider ending the tracking at the point of conversion. This could be a decision considered by the Oregon Recycling System Advisory Council (ORSAC) to recommend to the EQC, for example.

### **3. Other Comments.**

**A. Potential cost impacts.** While ORRA realizes the difficulty in analyzing potential cost impacts of the rule, DEQ has consistently asserted within presentations and conversations both within the RAC process and outside of that formal forum that because producers will be responsible for many of the costs to implement the RMA, ratepayers may see decreases in rates as a result of the new law. Throughout the process to develop and implement the RMA, ORRA has maintained that we do not

know what the impact to Oregon consumers will be and DEQ should be transparent that potential cost increases or decreases are unknown at this time.

Within the Statement of Fiscal Impact, DEQ offers conflicting information. “One potential negative impact on the public depends on whether and how producers pass on additional costs to consumers in Oregon. This has been difficult to estimate...A DEQ-commissioned study comparing shelf prices for the same items sold by the same retailers in Canadian provinces with vs. without packaging PROs and producer fees found minimal correlation between product-specific fees (paid by producers) and differences in retail shelf prices.” (page 12, second paragraph). ORRA has questioned the value and relevancy of this referenced study to Oregon’s RMA. In addition, DEQ stated during the April 11 RAC meeting that there was no attempt to quantify shelf price changes in Canada.

The quoted statement above is vague, it starts as a possible negative, but ends dismissing that by referencing one review of Canadian product pricing, converting the statement to a positive, or at least neutral statement. It is helpful that DEQ also notes in that same paragraph that “Economic theory predicts that a portion of producer costs will be passed on to consumers in the form of higher shelf prices, although producers that sell into multiple states may recover these costs across customers in multiple states, thereby reducing price impacts on the public in Oregon.” This is at least some recognition that costs may be passed along to consumers.

Another example is a statement that the improvements in Oregon’s recycling system will transfer some expenses from ratepayers to PROs and, “All other things being equal, this should reduce the rates charged to ratepayers, such as households and businesses.” (page 12, first bullet under “Anticipated positive impacts”). There is a Footnote “5” to this bullet that states, “It should be noted that in some communities, such as those that make significant expansions or changes to on-route recycling services, rates paid by ratepayers may rise as a result of the Act. In addition, waste collection rates reflect a number of factors which these rules do not effect, such as the price of diesel and the cost of disposal. For that reason, rates charged to users in various Oregon communities may go up or down for reasons largely unrelated to the Act.”

ORRA agrees that all other things are likely not equal – labor, cost of trucks and fuel, inflation, are all components of the rates paid by customers, and there are intricacies of how ratemaking works in every jurisdiction that should be considered. This is an example of what DEQ does not know, and therefore should not be written as a positive statement that could turn into the sound bites that become the expectation of customers.

**B. Indirectly affected parties.** Within the proposed rule (page 2) “Commingled recycling processing facilities” are identified as indirectly affected parties. ORRA offers that these facilities are directly affected by the proposed rule. Commingled recycling processing facilities are clearly identified throughout the proposed rule, as well as within the Statement of Fiscal and Equity Impact as being directly affected by implementation of the RMA. This direct impact is illustrated throughout the narrative and ORRA’s “track changes” rule version included with these comments. Specific examples within the Statement of Fiscal and Economic Impact include, “The Act requires producers of covered products to support and expand recycling services for their products in Oregon and requires local governments and the facilities that process commingled (mixed) recyclables to adhere to several new requirements.” (Overview, page 4).

In addition, the Statement of Fiscal and Economic Impact states that “DEQ is unable to estimate the extent of the impacts because of the Act’s integrated components and the concurrent changes (e.g., new permitting requirements for commingled recycling processing facilities and system efficiencies that will occur.” (page 9, third bullet under section “I”). This is acknowledgement that there will be impacts to the MRFs, even though those impacts cannot be fully quantified at this time. This lack of data to fully quantify impacts to the commingled processing facilities is noted within the anticipated business impacts to both large and small businesses.

For customers who recycle in Oregon, and end markets and people who live in communities where end markets are located, Oregon’s actions have an impact globally in our focus on a circular economy. Our shared aspiration with the RMA is that Oregon continues to be a leader and environmental steward in creating a transparent system that fosters responsible recycling from how materials are labeled and packaged, to the choices consumers make, to ultimately getting materials to responsible end markets.

**4. Track Changes Rule Attachment, with Amendment Explanations and Table of Contents.**

Attached to the comments are ORRA’s track changes version of the draft rule, including explanations by page and line for each change; if there is a comment only it is highlighted in yellow. ORRA prepared and attached a Table of Contents as well, for ease of reference.

In conclusion, this rulemaking process has been intense, technical, and demanding for all participants. ORRA appreciates the work of the DEQ, as well as every RAC member and every other person attending meetings to add to their understanding of this program and bring their best ideas to this effort to modernize Oregon’s recycling system. There is still a lot to be done, and ORRA and its members are committed to working together to complete this effort and to make Oregon’s program succeed.

Sincerely,



Kristan S. Mitchell  
Executive Director and CEO

Attachments: see 4. above

C: ORRA Steering Committee  
ORRA Board of Directors  
ORRA RAC Workgroup

Page Numbering Note:

ORRA's edits and comments begin on page 127 and go to page 166, which are the amendments to existing rule. They continue beginning on page 170 and go to page 209, which is all new rule language.

Due to ORRA's suggested changes, the page numbers do not correspond to the page numbers within the proposed draft rule as offered by DEQ.

This is noted within ORRA's Table of Contents, included as an attachment to ORRA comments.

## ORRA Table of Contents

DEQ May 25, 2023 Notice of Proposed Rulemaking  
Plastic Pollution and Recycling Modernization Act, Rulemaking 1

<b>Notice of Proposed Rulemaking</b>		Page
Introduction through Alternate Formats		1-31
<b>Draft Rules- Edits Highlighted*</b>		32-125
<b>Draft Rules- Edits Incorporated</b>		126-172 (See Renumbered Sections Below)
Section	Title	Page
0005	Purpose	126
0010	Definitions	126
0015	Scope and Applicability	131
0020	Opportunity to Recycle (OTR)	132
0030	General Requirements	132
0040	Local Government (LG) Recycling Program Elements	136
0042	Waste Prevention and Reuse Programs	147
0080	Alternative Methods for Providing the OTR	156
0090	Collection of Recyclable Materials	159
0110	Minimum Content Reporting Requirements	160
0140	Recyclable Material Economic Test	163
0190	Yard Debris Recycling Charges	163
0380	Recycling Rate Calculation for Rigid Plastic Containers	165
0410	Responsibilities of a Container Manufacturer	169
0430	Violations	172
<b>New Rule</b>		Page
		170-209 (See Renumbered Sections Below)
0600	Purpose and Applicability	170
0610	Definitions	170
0620	Effective Date	170
0630	Recycling Acceptance Lists	170
0640	Convenience Standards	175
0650	Performance Standards	181
0660	Collection Targets	184
0670	Responsible End Markets	185
0680	PRO Coordination	191
0690	PRO Fees	196
0700	Market Share	197
0710	Proprietary and Confidential Information	198
0720	Program Calendar	200
0730	PROs with less than 10 percent market share	200
0740	Reporting for plastic goal	200
0750	Program plan amendments and PRO fees	201
0760	PRO membership fees	201
0770	LG Transportation Cost Reimbursement	201
0780	Method for Determining Payment of Transportation Cost	204
0790	Expansion of Service	204
0800	Expansion of Service Funding and Needs Assessment	206
0810	LG Compensation and Invoicing	208

\*note ORRA did not make changes to this section and it is not included in our submittal

## Explanation of ORRA Amendments in Draft Rule

Rules are intended to assist in implementing statute, by giving more detail than exists in statute in order to meet the goals of the law. This generally means statute is not merely re-stated verbatim. Where there are verbatim statutory restatements in this rule draft, ORRA has attempted to leave them in place, and then add more language to provide the context and detail designed to help implement the law.

Changes and comments are noted at the page (p.) and line (l.) they begin. Recommended changes are in “track changes.” If there is a comment only, it is highlighted.

Page/Line	Explanation
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p.127 l. 2	Added specific statutory citation for tenants as collection service customers.
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p.130 l.30	Good clarification of the definition for source separate.
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p.133 l.20	typo – extra “5”
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p.134 l.20-21	ORS 459A.005(1)(a)(B) allows for an alternative method to meet the requirements of the Opportunity to Recycle pursuant to EQC rules, which are stated at OAR 340-090-0080. ORRA’s language, as added to this draft, maintains that statutory consistency.
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p.134, l.26-28 It is very important to plan for container access at multifamily properties, because there is limited space and conflicting goals (parking for residents v. needed space for containers, for example). The planning must be done in advance of construction or significant remodel, and ORRA’s language clarifies that.

p.134, l.32-33 It should be the responsibility of the property owner to provide appropriate access for all residents, and using existing models like the ADA to figure out how to meet this need allows for uniformity, and also some flexibility. ORRA has continuing concerns about safety issues for children in particular – making sure they are not at risk in being near containers, ensuring they are not climbing on them or viewing them as a play structure. ORRA’s language addresses those concerns.

p.138 l.21-22 DEQ deleted yard debris in the proposed rules (see p.45, l.20 of the “Edits Highlighted” draft). Please explain the numerous changes related to yard debris, specifically here but also throughout the proposed rule. Are they all intended as housekeeping? ORRA does not recall discussion of yard debris topics during the RAC meetings.

p.141, l.19-27 This section is related to materials collected at depots pursuant to the Opportunity to Recycle (OTR). ORRA believes this confirms that Local Governments (LGs) can continue to collect glass at depots but are not required to do so because glass is not on the LG Acceptance List. If LGs choose to do so, the PROs will help pay for it, pursuant to RAC discussions, unless the PROs are offering a similarly convenient glass collection option.

p.164,l.35 to p.165,l.2 There is a reference to yard debris in 340-090-0030, and ORRA does not see yard debris noted in -0030. Please advise where this is and what the effect of this amendment is.

p.165 1.12 Added “for Rigid Plastic Containers” to the title of the section for readability.

p.165, 1.32 to p.166, 1.3 Are these types of resins all parts of rigid plastic containers that are covered products? PVC, for example, has characteristics that are not desirable in recycling programs, so how do these resins fit into this calculation?. Also, at p.166, 1.1, the list ends with “other” and does not continue.

p. 170 following are ORRA’s suggestions/comments for Definitions in -0630

p. 170, 1.28 remove “thin”

1.30 add “or jug” since jugs are the same shape as bottles

1.31 remove “tubs” and replace with “jugs.”

p.171, 1.14 why are refillable containers excluded from pressurized cylinders? At a certain point, the law no longer allows those containers to be refilled, and at that point, a recycler would treat them the same as the other cylinders that are accepted, following the same protocols for safe recovery. Is there a way to rephrase this exemption to make that point?

1.24 how will anyone know if a material contains at least 50% metal and where did this concept originate?

1.25 clarifies “that previously contained refrigerants” in order to emphasize that they will not be accepted unless already removed

p.172, 1.1-2 added more clarification to exclude other contaminants that do not pulp

1.3-4 added additional exclusion for flexible packaging in boxes

1.5 exclusion for refrigerated items, but what about egg cartons, for example? This shows the level of complexity and difficulty in educating customers about what is, and what is not, recyclable.

p.173, 1.1 limit buckets, pails, etc., to five gallons or less. DEQ has previously stated that LGs could make this decision about size of buckets and then PROs could pick up items excluded by size in the PRO list. ORRA believes for clarity and less confusion overall, buckets larger than five gallons should be excluded statewide from the LG list.

1. 16 what is “other scrap metal”?

p.174, 1.9 to p.175, 1.11 ORRA has amended these sections that relate to the LG Acceptance list materials collected pursuant to the Opportunity to Recycle (OTR) and the Uniform Statewide Collection List (USCL), to reflect a trial or research approach for some specific materials in the metro-region only. For further explanation, please refer to page 4 of ORRA’s Comments Introductory Letter relating to Trial or Research and SIMs, as well as all previous ORRA comments submitted during the RAC meetings (dated February 1, March 24, and April 18).

p.174, 1.17 Added ORS 459A.005(1)(a)(B), which allows for alternative compliance in accordance with EQC rules, specifically OAR 340-090-0080. If (B) is added back as suggested, it makes sense in the next sentence to limit “recycling collection” as defined at 459A.863(25) to (a) through (c); if (B) is not added back, then the depot option of 459A.863(25)(d) should be added.

p.176, 1.27 Change the “does not exceed” from 110 percent to 115 percent. Neither ORRA nor DEQ found an existing comparison for this price premium from other programs, however ORRA offers the following reasons for 115 percent, including the following: Existing sites are already zoned and permitted for this use; trained staff is already available to safely handle the added materials; the sites have proper equipment and maintenance standards in place; the sites follow state and local solid waste management rules; the sites offer other collection services, which allows customers to combine trips and have the convenience of one-stop shopping.

p.177, 1.28-30 ORRA language clarifies that information submitted to determine “where possible” would be held as confidential under both statute and rule.

p.179, 1.28-30 Please explain how the calculation is made to determine that 95% of Oregonians will be within 15 mile of a recycling collection for these materials, and how that language was derived.

p.181, 1.4-6 There needs to be a reverse of this language - what happens if a covered product is removed from the USCL? This is a resiliency issue, with on ramps and off ramps for how materials are collected.

p.182, 1.12-23 What happens if the material is contaminated and requires disposal? Are there increased consequences for PROs, such as required staffing? Do LGs have the ability to shut down contaminated sites under their existing nuisance authority, or is there some other LG remedy otherwise listed in these rules?

p.186, 1.3-28 Please refer to ORRA’s comments on page 5 of ORRA’s Comments Introductory Letter relating to Responsible End Markets for the explanation of these changes.

p.186, 1.23-26 ORRA offers a definition of recycled feedstock to be used to define Responsible End Markets. Please refer to ORRA’s comments beginning on page 5 of ORRA’s Comments Introductory Letter for more detail.

p.198, 1.34 to p.199, 1.34 ORRA amends this section to include Confidential Information, which in many cases is not protected from disclosure by Proprietary Information and state law-defined trade secrets.

p.199, 1.21-23 ORRA deletes (d) because this information is proprietary and possibly even a trade secret for companies such as CPRFs. Markets can be unique, and if this information were disclosed to competitors, that market could be lost by the disclosing entity because of the competitive nature of the business. The information is important to understand, but it must be protected.

p.206, 1.21 delete “and”

p.208, 1.12 delete bullet

p.209, 1.17-19 ORRA adds this language to clarify if overpayments must be returned in 60 days, correspondingly, invoices will be paid in 60 days.





State of Oregon Department of Environmental Quality

# Notice of Proposed Rulemaking

May 25, 2023

Plastic Pollution and Recycling Modernization Act, Rulemaking 1

This package contains the following documents:

- Notice of Rulemaking
- Draft Rules: Edits Highlighted
- Draft Rules: Edits Included (final clean version)

## Note for Readers:

This package contains multiple documents. If you want to read more than one document at a time, you can open multiple copies of this PDF by downloading the PDF and then opening it in Adobe. You can then either:

- Click on the “Windows” item in the top ribbon
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# Table of Contents

- Introduction..... 1
- Request for Other Options..... 1
- Overview ..... 1
- Procedural Summary..... 2
- Statement of need ..... 4
- Rules affected, authorities, supporting documents..... 7
- Documents relied on for rulemaking ..... 8
- Fee Analysis..... 1
- Statement of Fiscal and Economic Impact ..... 4
- Housing cost..... 19
- Racial Equity..... 21
- Advisory committee review of racial equity impact ..... 22
- Federal relationship ..... 24
- Land use..... 25
- EQC Prior Involvement..... 26
- Advisory Committee ..... 27
- Public Engagement ..... 29
- Public Hearing ..... 30
- Alternate formats ..... 31
- Draft Rules – Edits Highlighted..... **Error! Bookmark not defined.**
- Draft Rules – Edits Incorporated..... **Error! Bookmark not defined.**

# Introduction

DEQ invites public input on proposed new and permanent rule amendments to chapter 340 of the Oregon Administrative Rules. Parameters and requirements for the proposed rules specific to the Plastic Pollution and Recycling Modernization Act are set forth in Senate Bill 582, enacted by the 2021 Oregon Legislature. DEQ proposes changes to OAR 340, division 90 to align the newly adopted RMA rules with the existing Opportunity to Recycle program.

## Request for Other Options

During the public comment period, DEQ asks for public comment on whether there are other options for achieving the rules' substantive goals while reducing the rules' negative economic impact on business.

## Overview

### Short summary

DEQ is undertaking the first of two rulemakings to clarify and implement the Plastic Pollution and Recycling Modernization Act (SB 582, 2021), also referred to as the RMA. The Act requires producers of packaging, paper products and food serviceware to support and expand recycling services in Oregon for their products.

The purpose of the proposed rules is to:

- Define and clarify Producer Responsibility Organization obligations, including meeting responsible end market criteria, program plan timelines, the annual administration fee, market share and PRO coordination if multiple PROs operate in the state.
- Clarify opportunities and requirements for local governments and their service providers to be eligible for funding and reimbursement for recycling service expansion and transportation costs.
- Establish Oregon's first statewide recycling materials list and identifying materials for the Local Government Recycling Acceptance List and the PRO Recycling Acceptance List.
- Define convenience standards, collection targets and performance standards for PRO recycling services.

The proposed rules are informed by discussions and input provided by DEQ's RMA rulemaking advisory committee, which included members from the regulated community, non-profit and community-based organizations, other interested parties and the public.

### Affected parties

The following parties are directly affected by the proposed rules:

- Local governments

- Collection service providers
- Producers of packaging, printing and writing paper, and food serviceware that become waste in Oregon
- Producer Responsibility Organization(s), a nonprofit organization established to administer a producer responsibility program. For this rulemaking, the producer responsibility program will be implemented statewide for the responsible management of covered products.

### **Indirectly affected parties**

The following parties are indirectly affected by the proposed rules:

- Customers/residents who recycle in Oregon
- Commingled recycling processing facilities
- End markets and the people who live in the communities where end markets are located

### **Outreach efforts and public and stakeholder involvement**

DEQ convened meetings with the public, local government and industry representatives through technical working groups, small-group discussions, and the rulemaking advisory committee meetings to encourage involvement and the contribution of input throughout the rulemaking process.

## **Procedural Summary**

### **More information**

Information about this rulemaking can be found on the [Recycling Updates 2023](#) web page.

### **Public Hearings**

DEQ plans to hold two public hearing(s) that anyone can attend by Zoom, an online video conference platform with toll-free telephone access for audio-only connections.

#### **Hearing 1:**

Date: June 27, 2023

Start time: 11 a.m. PT

Please [Register via Zoom](#) prior to the meeting.

#### **Hearing 2:**

Date: June 29, 2023

Start time: 5 p.m. PT

Please [Register via Zoom](#) prior to the meeting.

After registering, you will receive a confirmation email with instructions on how to join the meeting. If you are unable to register online using the link above, please contact Roxann Nayar for information on how to register and attend the hearing.

Email: [Roxy.Nayar@deq.oregon.gov](mailto:Roxy.Nayar@deq.oregon.gov)  
Phone: 503-593-3306

## How to comment on this rulemaking proposal

DEQ is asking for public comment on the proposed rules. Anyone can submit comments and questions about this rulemaking. A person can submit comments by email, regular mail or at the public hearing.

- Email: Send comments by email to [recycling.2023@deq.oregon.gov](mailto:recycling.2023@deq.oregon.gov)
- Post mail: Oregon DEQ, Attn: Roxann Nayar/Materials Management, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232-4100
- At the public hearings: 11 a.m., Tuesday, June 27, or 5 p.m., Thursday, June 29, 2023.

## Comment deadline

DEQ will only consider comments on the proposed rules that DEQ receives by **4 p.m. Pacific Daylight Time, on July 6, 2023.**

## Note for public university students:

ORS 192.345(29) allows Oregon public university and OHSU students to protect their university email addresses from disclosure under Oregon's public records law. If you are an Oregon public university or OHSU student, notify DEQ that you wish to keep your email address confidential.

## Sign up for rulemaking notices

Get email or text updates about this rulemaking by either:

- Signing up through this link: [GovDelivery](#);
- Signing up on the rulemaking web site: [Recycling 2023](#)

## What will happen next?

DEQ will include a written response to comments in a staff report that DEQ will submit to the Environmental Quality Commission. DEQ may modify the rule proposal based on the comments.

Proposed rules only become effective if the Environmental Quality Commission adopts them. DEQ's intended action is to present the proposed rule changes to the EQC as soon as possible after the earliest date on which the rule changes could take effect. DEQ intends to submit the proposed rule to the EQC on or before Oct. 12, 2023.

# Statement of need

Proposed Rule or Topic	Discussion
<b>Local Government Compensation</b>	
<p>What need would the proposed rule address?</p>	<p>The proposed rules address local government need for financial support for recycling services. The proposed rules related to the local government compensation topics clarifies when and how PROs will provide funding or reimbursements to local governments or their collection service provides for:</p> <ul style="list-style-type: none"> <li>• Transportation costs</li> <li>• New or expanded on-route collection start-up costs</li> <li>• New or expanded depot collection start-up and operational costs</li> <li>• Contamination reduction programming</li> </ul>
<p>How would the proposed rule address the need?</p>	<p>For transportation costs, the rules clarify that the transportation of covered recyclable products needing to travel 50 miles or more from a recycling depot or recycling reload facility to a commingled recycling facility or responsible end market are eligible for funding or reimbursement upon request.</p> <p>For recycling services expansion, the rules clarify the eligible expenses for the local governments who indicated interest in service expansion through the voluntary completion of the 2023 needs assessment survey. These expenses include:</p> <ul style="list-style-type: none"> <li>• Expenses for new or expanded on-route start-up costs, including: <ul style="list-style-type: none"> <li>○ Collection trucks</li> <li>○ Containers or roll carts</li> <li>○ Monitoring equipment</li> <li>○ New program promotional literature</li> <li>○ Staff safety equipment</li> <li>○ Recycling reload facility if none other is available or existing facilities are inadequate.</li> </ul> </li> <li>• Eligible expenses for new or expanded depot collection programs start-up and operational costs including but not limited to: <ul style="list-style-type: none"> <li>○ Land acquisition</li> <li>○ Containers</li> </ul> </li> </ul>

Proposed Rule or Topic	Discussion
	<ul style="list-style-type: none"> <li>○ Signage</li> <li>○ On-site monitoring equipment</li> <li>○ Equipment to move, compact, bale, and load recyclables for shipment</li> <li>○ Site preparation or other start-up costs</li> <li>○ Hiring and training staff, staff safety equipment</li> </ul> <p>For contamination reduction programming, the rules describe the reimbursement procedures and specify the source of census data that must be used to calculate the annual per capita funding a local government, the local government's service provider or other person authorized by the local government has authorized, to receive.</p>
How will DEQ know the rule addressed the need?	The proposed rules in OAR chapter 340, division 90, establish the criteria for local governments or their collection service providers to receive funding from PROs to fund recycling collection services. Information provided through the annual reporting requirements and the periodic requirements for PRO(s) to update their operating program plans will allow DEQ to track and review funding disbursement to local governments and/or their service providers over time.
<b>Producer Responsibility Organization Obligations</b>	
What need would the proposed rule address?	<p>The proposed rules address the need to clarify PRO obligations. The rules clarify a variety of elements related to how PROs will establish and operate in Oregon. This includes:</p> <ul style="list-style-type: none"> <li>● establishing the initial and annual review fees paid to DEQ,</li> <li>● establishing methods for determining market share and coordination if there are multiple PRO(s),</li> <li>● clarifying the schedule for program plan updates and amendments,</li> <li>● defining responsible end markets and how PRO(s) will ensure compliance with these standards.</li> </ul>
How would the proposed rule address the need?	These proposed rules address a need to clarify statutory language involving producer responsibility obligations and requirements for implementing the Act. The rules require that the PRO(s) implement and meet the responsible end market standards, pay administrative fees to DEQ, and coordinate with other PRO(s) when needed. Additionally, the rules address the need for ensuring confidentiality of specific proprietary

<b>Proposed Rule or Topic</b>	<b>Discussion</b>
	information, and provides methods for calculating market share and for estimating covered products.
How will DEQ know the rule addressed the need?	PRO(s) will report annually on actions to implement an approved program plan(s) and related outcomes. This will provide DEQ the information required to know if the rules are addressing the need.
<b>Recycling Acceptance Lists</b>	
What need would the proposed rule address?	The proposed rule addresses the need for standardization of recycling services in Oregon, including the types of materials collected, and level of collection service across the state regardless of location.
How would the proposed rule address the need?	The Act describes several different lists and types of materials. These include “covered products,” “specifically identified materials,” and multiple lists of materials designated as suitable for recycling and for which PRO(s) or local governments must collect for recycling. The rules define each list and clarify standards regarding collection targets, performance standards and convenience standards.
How will DEQ know the rule addressed the need?	The PRO(s) will have to report to DEQ how they are meeting the specific performance and convenience standards. DEQ Regional Specialist staff who will perform compliance inspections.



# Rules affected, authorities, supporting documents

## Lead division

Materials Management Program

## Program or activity

Plastic Pollution and Recycling Modernization Act

## Chapter 340 action

### OAR chapter 340, division 90

<b>Adopt</b>				
340-090-0610	340-090-0660	340-090-0710	340-090-0760	340-090-0810
340-090-0620	340-090-0670	340-090-0720	340-090-0770	340-090-0600
340-090-0630	340-090-0680	340-090-0730	340-090-0780	
340-090-0640	340-090-0690	340-090-0740	340-090-0790	
340-090-0650	340-090-0700	340-090-0750	340-090-0800	
<b>Amend</b>				
340-090-0005	340-090-0030	340-090-0090	340-090-0380	
340-090-0010	340-090-0040	340-090-0110	340-090-0410	
340-090-0015	340-090-0042	340-090-0140	340-090-0430	
340-090-0020	340-090-0080	340-090-0190		
<b>Repeal</b>				
340-090-0041				
340-090-0070				

<b>Statutory Authority - ORS</b>				
459A.975				

<b>Statutes Implemented - ORS</b>				
459A.860- 459.975				

## Legislation

Senate Bill 582 (2021)

## Documents relied on for rulemaking

Document title	Document location
Overview of Scenario Modeling (Economic Assessment)	<a href="#">DEQ website</a>
Association of Plastics Recyclers – Plastics Recycling Glossary	<a href="#">Plastics Recycling Glossary</a>
DEQ – Materials Definitions for Phase 1 of Infrastructure research conducted for Recycling Steering Committee	<a href="#">DEQ website</a>
Portland State University, Population Research Center – Population Estimate Reports	<a href="#">PSU Population Research Center</a>
Supplemental Information: Selected Responses to DEQ’s Recycling Acceptance Lists Request for Information	<a href="#">DEQ website</a>
Comparative Life Cycle Assessment of Glass Collection and Recycling	<a href="#">DEQ website</a>
Comparative Life Cycle Assessment of Expanded Polystyrene Dispositions	<a href="#">DEQ website</a>
Comparative Life Cycle Assessment of Aseptic Packaging/ Cartons	<a href="#">DEQ website</a>
Supplemental Information: Recyclability of Paper Cans	<a href="#">DEQ website</a>

# Fee Analysis

These proposed rules would establish new fees, as directed by legislation.

## Brief description of proposed fees

The Plastic Pollution and Recycling Modernization Act (Senate Bill 582, 2021) requires certain producers<sup>1</sup> of packaging, food serviceware and printing and writing paper to join a Producer Responsibility Organization, which is a nonprofit membership organization that will administer this producer responsibility program. The PRO will propose to DEQ and then implement an approved program plan that describes how this will be achieved, including how the PRO(s) will satisfy a wide variety of financial and operational obligations that are contained in statute.

DEQ is required to establish a one-time plan review fee and an annual fee calculated to cover DEQ's administrative costs specific to many elements of the Act. These fees are not paid by businesses directly, rather they will be paid by the PRO(s). The PRO(s) in turn will recover these and other expenses by assessing membership fees to producers of covered products.

The program plan and annual fees will pay for DEQ's review of the PRO(s) program plan and DEQ's annual expenses for administering, implementing, and enforcing provisions of the Act as described in ORS 459A.938(1)(b).

## Reasons

The proposed fees would address policy changes and fees established by statute. The Act outlines the obligations of PRO(s) and establishing the proposed fees will allow DEQ to implement the Act as directed by Oregon Legislature.

## Fee proposal alternatives considered

DEQ did not consider alternatives. The proposed fee model was established in legislation and DEQ is proposing to implement the model as directed.

## Fee payers

Only Producer Responsibility Organizations would pay these fees to DEQ.

## Affected party involvement in fee-setting process

The proposed fee model, including types of fees and overall structure, was established through collaborative discussions with relevant parties during the legislative development of Senate Bill 582. No PROs for printed paper, packaging, and food serviceware exist within

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<sup>1</sup> For the purposes of this rulemaking "producers" are largely businesses as defined in ORS 459A.866. Importantly, they are not always the manufacturer of packaging, food serviceware, or printing and writing paper (also referred to as "covered products") but are more often the business users of such products that purchase them from the manufacturer and then sell them in Oregon.

Oregon at this time; however, DEQ’s prior consultations with PRO(s) from other jurisdictions informed the development of these proposed fees.

## Summary of impacts

The proposed fees would be paid by the PRO(s), as established in legislation. The PRO(s) in turn will recover their expenses using membership fees paid by entities defined in the Act (producers) that produce certain types of products for sale in Oregon.

The proposed fees would support DEQ’s administration of the Act, specifically:

- Review of program plan and program plan amendment submissions from prospective and existing PRO(s) per ORS 459A.875 and 459A.878 (the program plan review fee); and
- Ongoing administration, implementation, and enforcement of provisions ORS 459A.860 to 459A.975, but excluding ORS 459A.955, 459A.956 and 459A.959 (the annual administration fee). Also excluded is the implementation of ORS 459A.941, whereby DEQ will establish a new program to reduce the environmental impacts of covered products through means other than recycling. That program will be established through a separate fee as required by ORS 459A.941(4). That new fee will be established in a subsequent rulemaking.

The proposed fees are critical to DEQ being able to successfully implement the Act, as directed by the Oregon Legislature, and to modernize Oregon’s recycling systems.

## Fee payer agreement with fee proposal

No PRO(s) for producers of packaged items, paper products and food serviceware are currently established in Oregon, so DEQ was not able to solicit direct feedback from these entities as part of the rulemaking process. Representatives of two PRO(s) active in Canada did review these rules through their participation on the RAC. DEQ does expect to receive feedback from entities that may organize to operate as PRO(s) in Oregon before this rulemaking process is complete.

## Links to supporting documents for proposed fees

Plastic Pollution and Recycling Modernization Act (Senate Bill 582, 2021)	<a href="#">Oregon Legislature website, SB 582</a>
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## Fee Amount Details

The proposed fee amounts are as follows:

- Program plan review fee: a \$150,000 fee paid by a PRO when submitting an initial or renewal program plan program plan. If there are multiple PROs, each will pay the fee. Due to a statutory 10 percent market share minimum for PROs, DEQ expects 1-

3 PROs will initially operate in the system, although it could theoretically contain up to ten PROs.

- Annual administration fee: up to \$4,000,000 per year paid for the first four program years (2025-2028) and up to \$3,000,000 paid per year thereafter (2029 onward).<sup>2</sup> If there are multiple PROs, the fee will be divided among the PROs in proportion to the market share held by each producer participating in each PRO. DEQ may adjust the fee downward each year to reflect actual operating costs.

## **Fee schedule**

The proposed fees include a one-time plan review fee for each PRO(s) established in Oregon and an annual fee for continued improvement and ongoing implementation of recycling modernization programs and activities at DEQ. The plan review fee will become effective in 2024 when prospective PRO(s) submit their plans for a March 31, 2024, deadline. The annual fee will be paid for the first time in 2025 when approved PRO(s) begin their programs beginning July 1, 2025.

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<sup>2</sup> The first four annual fees are higher than the later annual fees because they encompass reimbursement of DEQ's start-up costs incurred in 2021-2025.

# Statement of Fiscal and Economic Impact

## Overview

This proposed rulemaking will clarify and implement portions of the Act, passed in 2021 by the Oregon Legislature. The Act requires producers of covered products to support and expand recycling services for their products in Oregon and requires local governments and the facilities that process commingled (mixed) recyclables to adhere to several new requirements.

These proposed rules are specific to topics, including PRO program plan content, DEQ administrative fees, funding and reimbursement for local governments related to select eligible recycling-related expenses and creating a materials acceptance list for materials eligible for collection in Oregon, as well as collection targets, convenience standards and performance standards for recycling of certain materials by PRO(s). The Materials Management Program will begin a second rulemaking beginning mid-2023 to implement additional elements of the Act, building on the foundational structures created by this rulemaking.

The proposed rules and rule revisions included in the rulemaking are based on discussions and input provided by DEQ's Rulemaking Advisory Committee, which included representatives from waste collectors and commingled recycling processing facilities, local governments, non-profit organizations, waste generators, PRO(s) and producers of covered products.

## Fiscal and Economic Impacts Overview

The proposed rules support the actions directed by the Oregon Legislature in the Act. The proposed local government compensation, materials acceptance lists and PRO obligation rules establish and implement recycling programs and regulatory structures that provide more uniform and equitable access to recycling opportunities for communities across the state.

The proposed rules would address specific barriers to access, such as high transportation costs for rural and remote communities and non-standardization of materials accepted by on-route recycling collection services and drop-off-style depots. Additionally, these rules would clarify how PRO(s) will distribute funding to local governments and their service providers<sup>3</sup> across the state for the expansion of recycling collection service.

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<sup>3</sup> For the purposes of this rulemaking, a local government's service provider is defined in the Act as:

- (a) A collection service franchise holder under ORS 459A.085;
- (b) Any person authorized by a city or county to provide recycling collection services described in subsection (25)(a) to (d) of this section; or
- (c) Any person authorized by a metropolitan service district to provide recycling collection services described in subsection (25)(d) of this section.

This expansion of services, accompanied by culturally specific outreach and education materials, would provide equitable access to recycling service for all communities across Oregon.

**I. Fiscal Impacts of Local Government Compensation Rules:**

A portion of the membership fees collected by the PRO(s) from the producers of covered products would be directed to local governments and their respective service providers. DEQ anticipates several positive impacts related to the requirements in ORS 459A.890 and the proposed rules relevant to this section.

Local governments will be eligible for compensation from the PRO(s) to pay for:

- Specific costs associated with on-route collection.
- Specific startup and operational costs at recycling collection depots.
- The costs for transporting collected materials from a recycling depot or recycling reload facility to a commingled recycling processing facility or a responsible end market that is 50 miles or further away.
- Contamination reduction efforts up to \$3 per year per capita. While statute dictates the amount payable to local governments, the proposed rules clarify which census data must be referenced and clarifies the administrative procedures for reimbursement.

**II. Fiscal Impacts of Recycling Acceptance Lists Rules:**

Proposed rules related to material acceptance lists will require local governments, their service providers, and commingled recycling processing facilities, to collect and process higher volumes and a more complex mix of recyclable materials than is currently the case outside of the Portland metro tri-county region. These higher volumes will increase the costs of collecting and processing recyclables. However, cost increases will be partially offset by reductions in garbage collection and disposal costs in some communities, and some costs will shift from local governments and processing facilities to PRO(s).

Separately, other proposed rules related to material acceptance lists will impose additional fiscal impacts on the PRO(s) for the provision of convenient recycling services for materials that are not currently collected. These proposed rules will benefit Oregon households and businesses, which will realize additional opportunities to recycle and reduced waste management expenses in some communities.

Finally, increased recycling would reduce the pollution associated with virgin resource extraction and manufacturing, which in turn would reduce a wide variety of societal costs such as those associated with climate change, air and water pollution, habitat disruption, and depletion of non-renewable resources.

**III. Fiscal Impacts of Producer Responsibility Organization Obligations Rules:**

The proposed rules governing PRO obligations would primarily impact and impose costs upon the PRO(s) themselves, with costs passed on to their member producers

through membership fees. The rules requiring PROs to meet convenience and performance standards for recycling of certain items, along with rules requiring that waste collected for recycling is sent to responsible end markets are likely the most financially impactful to the PRO(s) among the proposed rules.<sup>4</sup> Anticipated costs from the responsible end market rules include auditing recycling supply chains and the cost of implementing any improvements identified through the auditing process.

Through the proposed rules, PRO(s) must also pay administrative costs for DEQ's implementation of the Act, including the cost of interim coordination among multiple PRO(s) if DEQ approves multiple PRO plans. The rules impose costs on the PRO(s) who will recoup the expenses by charging the producers a membership fee. Related PRO obligation rule(s) will provide several benefits, including:

- Responsible End Markets:
  - increased public confidence that materials collected for recycling are recycled
  - maximum environmental benefits and reduced environmental and public harm risk from recycling activities
- Market Share and Modified Market Share: fair allocation of costs among PRO(s) and producers
- Fees and PRO Coordination: effective administration of the Act by DEQ

## **Statement of Cost of Compliance**

### **State agencies**

DEQ does not anticipate that other state agencies will incur costs or benefits different than those described under the public section, below.

### **Local governments**

The Act provides funding opportunities for all communities, regardless of size, and has some new requirements for cities with populations over 4,000 and other regulated local governments.

DEQ anticipates that Local Governments may incur compliance costs related to:

- Recordkeeping and invoicing PROs for compensation
- Ongoing operational costs of expanded recycling service that are not eligible for reimbursement
- Collecting the materials on the Local Government Recycling Acceptance List

Due to variability between local government operations, DEQ is not able to quantify the specific costs of compliance. Most local governments recover oversight and administration

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<sup>4</sup> Rules requiring PROs to compensate local governments and their service providers will also impose significant financial impacts on the PRO(s). However, those requirements are already largely established in statute, whereas the materials on the PRO Recycling Acceptance List, convenience and performance standards for the recycling of such materials, and responsible end market requirements are discretionary and more subject to EQC approval.



expenses via the application of a franchise fee, which often manifests as a percentage-of-revenue or percentage-of-expenditure surcharge on franchised services.

## **A. Local Government Compensation Rules**

### **I. Transportation Costs Reimbursement**

Local governments and service providers will work with the PRO(s) directly to determine the method to be used for calculating transportation costs. Local governments may incur some costs associated with recordkeeping and invoicing for compensation.

### **II. Recycling Services Expansion**

DEQ anticipates that this proposed rule will result in additional reporting and recordkeeping requirements for those local governments that choose to voluntarily request reimbursement for costs associated with recycling service expansion. These costs will most likely be related to the opportunities for local governments to participate in periodic needs assessment surveys, administered by DEQ or a contractor to DEQ, determining exact needs and negotiating compensation details with the PRO(s), and documenting recycling costs and procedures to request reimbursement from PRO(s). In most cases, any ongoing operational costs that are not eligible for reimbursement by the PRO will likely be recovered through user fees (e.g., garbage bills) as opposed to being an expense to the local government itself.

### **III. Contamination Reduction Programming**

DEQ anticipates some fiscal impact created by the proposed rules due to associated recordkeeping costs. Local governments will be responsible for documenting costs and establishing reimbursement procedures with the PRO(s).

## **B. PRO Obligation Rules**

DEQ does not anticipate that local governments will incur costs from the rules on PRO obligations. Local governments will benefit from the responsible end market obligation by having increased confidence that the materials accepted for recycling in their communities are being recycled responsibly. Such transparency in turn will increase the public's confidence in the recycling system. It is difficult to quantify these benefits in direct financial terms.

## **C. Recycling Acceptance List**

DEQ anticipates that there may be compliance costs for local governments or their service providers for costs associated with collecting the materials on the Local Government Recycling Acceptance List. In most cases, the costs incurred by local governments themselves will be relatively low, because most recycling services are paid for by ratepayers (system users), and not local government funds. The fiscal impacts of the proposed Recycling Acceptance List rules can be categorized by costs associated with on-route collection, at disposal sites or depots, general operational costs, and administrative compliance costs.

## **Producer Responsibility Organizations**

As defined in ORS 459A.863, a Producer Responsibility Organization is a nonprofit organization established to administer a producer responsibility program. PROs will have the highest costs of compliance relative to all other parties.

It is important to distinguish between the cost of compliance with statute, and the cost of compliance with the proposed following rules:

### **A. Local Government Compensation Rules**

DEQ proposes three rules associated with local government compensation, transportation costs reimbursement, recycling service expansion and contamination reduction programming. Currently DEQ is unable to quantify the fiscal impacts of these rules.

#### **I. Transportation Costs Reimbursement**

The PRO(s) are required to pay for eligible transportation costs established in statute and most of these are not related to this proposed rule.

The proposed rules establish that transportation costs also include administrative costs including, but are not limited to, costs related to staffing and the hiring and managing of staff. The proposed rules shift these costs from local governments and service providers to the PRO(s). DEQ anticipates that administrative costs will be low relative to the magnitude of the transportation costs themselves.

#### **II. Recycling Service Expansion**

DEQ anticipates that this proposed rule will result in additional reporting and recordkeeping requirements for those local governments that choose to voluntarily request reimbursement for costs associated with recycling service expansion. The Act requires that the PRO(s) pay for specific costs related to expanding and providing recycling collection services for covered products, per ORS 459A.890(5)(a). This includes both on-route collection and recycling depot service.

#### **III. Contamination Reduction Programming**

The rules related to contamination reduction programming require local governments will be responsible for documenting costs and establishing reimbursement procedures with the PRO(s).

### **B. Recycling Acceptance List Rules**

DEQ's estimate of the compliance costs to the PRO compare the costs of DEQ's rule concept against a set of hypothesized alternatives, as opposed to the costs of Oregon's current recycling system. This is because continuation of the current system is not a viable alternative under the Act. The Act requires the use of a uniform statewide collection list and the provision of programming such as contamination reduction efforts and processing of mixed recyclables at permitted facilities. The discretion available to the Environmental Quality Commission as part of this rulemaking is limited to what materials are on that uniform list and how are they collected. An evaluation of option comparisons and associated

costs, and an estimate of the costs of Oregon’s current recycling system is provided in the Cascadia Consulting Group’s 2023 report titled, “Overview of Scenario Modeling: Oregon Plastic Pollution and Recycling Modernization Act.”

The proposed rules for materials acceptance lists establish the contents and complexity of the acceptance lists. These proposed rules implement only a portion of the Act but may result in financial impacts to the PRO(s) if existing recycling services need to expand to accommodate materials added to the list. Expanding services will create new and increased costs related to:

- Collection and processing of materials on the Local Government Recycling Acceptance List.
- “Responsible end market” disposition requirements for materials on the Uniform Statewide Collection List.
- Recycling materials and achieving collection targets, convenience standards and performance standards for covered products on the PRO Recycling Acceptance List, and requirements to send such materials to “responsible end markets”.

### **I. Local Government Recycling Acceptance List: Costs associated with the collection and processing of materials on the Uniform Statewide Collection List**

DEQ is not able to fully quantify the specific fiscal impacts of these proposed rules. Fiscal impacts to the PRO(s) associated with collection and processing costs for materials on the Uniform Statewide Collection List are limited to the following:

- Reimbursement to local governments and their service providers under ORS 459A.890(5) for expansion of collection service *only to the extent that such expansion is a consequence of a more expansive commingled list than what is currently collected*. In some cases, expansion will be for other reasons, and so will not be a fiscal impact of the Local Government Recycling Acceptance List rule.
- Reimbursement to local governments and their service providers under ORS 459A.890(2) for transportation of collected materials to distant processing facilities or end markets *only to the extent that such transport costs increase due to a more expansive Local Government Recycling Acceptance List*. These impacts are estimated at about \$0.3 million annually.
- Reimbursement to commingled processing facilities under ORS 459A.920 and .923 *only to the extent that costs (net of revenue) increase due to a more expansive Uniform Statewide Collection List*. DEQ is unable to estimate the extent of the impacts because of the Act’s integrated components and the concurrent changes (e.g., new permitting requirements for commingled recycling processing facilities) and system efficiencies that will occur.

### **II. Impacts associated with responsible end market disposition requirements for materials on the Uniform Statewide Collection List**

Materials included in the Uniform Statewide Collection List, which includes most of the materials proposed for inclusion on the Local Government Recycling Acceptance List, prompts additional requirements on the PRO(s), to ensure that such materials:

1. Are sent to responsible end markets,

2. Are managed according to the hierarchy of materials management options in ORS 459A.015 and
3. Are managed in an environmentally protective way through to final disposition.

These requirements may impose compliance costs on the PRO(s) because there is a joint obligation for PRO(s) and commingled recycling processing facilities to ensure that materials reach responsible end markets. Currently DEQ does not have sufficient information to estimate associated compliance costs with these requirements.

### **III. PRO Recycling Acceptance List: Impacts associated with the recycling of materials and the achievement of collection targets, convenience standards and performance standards for covered products**

This proposed rule requires the PRO(s) to provide for recycling of materials on the PRO Recycling Acceptance List, and to meet collection targets, convenience standards and performance standards for such recycling. All materials on the PRO Recycling Acceptance List and all targets and standards are the subject of this rulemaking. DEQ is unable to quantify all the fiscal impacts of these rules on the PROs due to several unknown variables, including:

- The expenses PRO(s) will incur because the Act (ORS 459A.896(1)(a)) includes a requirement that PRO(s) first contract with existing depots “where possible”. DEQ cannot guarantee how many existing depots will choose to, and successfully contract with, a PRO(s). DEQ has instead applied professional judgment to estimate how many such facilities might take this opportunity. If DEQ’s estimate is incorrect, costs may be higher or lower than shown here.
- Compliance costs because it is unknown how the PRO(s) itself will respond to this mandate. The Act provides PRO(s) significant flexibility in how a PRO may achieve convenience standards.

DEQ estimates that major costs to PROs of the proposed rules for PRO Recycling Acceptance Lists, including collection targets, convenience standards, and performance standards may be on the order of \$20 to \$22 million annually (in 2021 dollars with capital costs amortized). These include:

- Approximately \$19 to \$21 million annually to provide recycling service for ten different materials at approximately two hundred different locations across the state. If PRO(s) can optimize collection points more efficiently than modeled, their compliance costs may be lower. If the number of existing depots that choose to opt into this system is higher than estimated, the PRO(s)’ compliance costs may be higher.
- Approximately \$1 million annually to cover increased operational costs at commingled recycling processing facilities.

Additionally, PRO(s) or their contractors will benefit from approximately \$1 million/year in commodity revenues, and other users of the system will benefit from approximately \$1 million per year due to reduced garbage collection, transfer and disposal costs.

### **C. PRO Obligations Rules**

DEQ anticipates that PRO(s) will incur costs to comply with the rules governing their obligations. Costs associated with the two PRO fees are described above. Costs to PROs associated with other PRO obligation rules are as follows:

- Responsible End Markets
- PRO Coordination
- Market Share and Modified Market Share

#### **I. Responsible End Markets:**

PRO(s) must ensure that materials collected for recycling are sent to responsible end markets and are managed in an environmentally protective way through final disposition.

DEQ is currently unable to estimate to potential cost of compliance with these provisions for these materials. To implement this obligation, PRO(s) will incur costs for auditing and/or certifying recycling supply chains. If out of compliance, PRO(s) may incur costs to come into compliance by implementing solutions, such as the development of alternative markets. DEQ cannot provide an estimate the costs associated with implementing solutions until after July 1, 2025. This is when data on existing recycling supply chains for Oregon's recyclables will be submitted to DEQ.

#### **II. PRO Coordination:**

The proposed rules clarify the coordination requirements if multiple PRO(s) submit program plans to DEQ and receive approval. DEQ proposes to serve as interim coordinator until a PRO coordination plan has been approved or until December 31, 2026, whichever comes sooner. The PRO(s) would pay DEQ's associated costs, approximately \$1.1 million from April 2024 through to December 2026.

#### **III. Market Share and Modified Market Share:**

Proposed rules include a formula termed "modified market share" to fairly divide system costs among multiple PRO(s). The potential fiscal impacts for PRO(s) will be proportional to the product-specific financial burden to Oregon's recycling system of the products sold into the state by their member producers.

PROs will be responsible to cover DEQ's costs to develop an index of material-specific financial burden factors to be used in calculating modified market share in the first year of the program.

## Public

The proposed rules establish no compliance obligations directly on the public. However, impacts of the rule will result in some indirect fiscal impacts, both negative and positive.

As discussed previously, many of the costs associated with the proposed rules are largely set in the Act. Any fiscal impacts of proposed rules on PRO(s) will be paid by producer members. One potential negative impact on the public depends on whether and how producers pass on additional costs to consumers in Oregon. This has been difficult to estimate. Economic theory predicts that a portion of producer costs will be passed on to consumers in the form of higher shelf prices, although producers that sell into multiple states may recover these costs across customers in multiple states, thereby reducing price impacts on the public in Oregon. A DEQ-commissioned study comparing shelf prices for the same items sold by the same retailers in Canadian provinces with vs. without packaging PROs and producer fees found minimal correlation between product-specific fees (paid by producers) and differences in retail shelf prices.

Another negative impact on the public involves their cost to deliver materials on the PRO Recycling Acceptance List to collection points. Some of these collection points will be co-located with existing solid waste and recycling facilities, while others will be sited in other locations to provide enhanced convenience (and reduce additional driving requirements). DEQ estimates that Oregon households and businesses may incur approximately \$6 to 9 million annually due to added personal vehicle use associated with delivering recyclables to PRO collection points. This estimate is limited to costs of vehicle ownership and operations, and excludes the value of user time. Importantly, such personal vehicle use is voluntary; the rules do not require households or other waste generators to take advantage of and participate in these recycling opportunities.

Anticipated positive impacts for the public from the rules include:

- The improvements to Oregon's recycling system will transfer certain expenses from collection and processing companies currently paid by the ratepayers to the PRO(s). All other things being equal, and in some communities, this should reduce the rates charged to ratepayers, such as households and businesses.<sup>5</sup>
- Oregon households and businesses will also have new opportunities to further reduce expenses for disposing of garbage or paying for a subscription or similar recycling service. For example, households and others currently transporting materials such as expanded polystyrene to distant collection points would benefit from a more convenient network of collection sites.
- Compensation for long distance (50 miles or more) transportation costs may benefit recycling programs and system users in rural and other areas that are far

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<sup>5</sup> It should be noted that in some communities, such as those that make significant expansions or changes to on-route recycling services, rates paid by ratepayers may rise as a result of the Act. In addition, waste collection rates reflect a number of factors which these rules do not effect, such as the price of diesel and the cost of disposal. For that reason, rates charged to users in various Oregon communities may go up or down for reasons largely unrelated to the Act.

from end markets and processing infrastructure. These rules may transfer certain expenses currently paid by ratepayers.

- More and improved recycling will reduce environmental impacts, a central objective of the Act. DEQ estimated the potential changes in environmental outcomes for thirteen different types of impacts, such as emissions of greenhouse gases and air toxics. For each of these outcomes, impacts are then converted to estimates of “social costs”. DEQ estimates that transitioning from the current recycling system to the system contained in the Act, and further clarified in these rules, could reduce social costs by approximately \$29 million annually (net of additional environmental impacts, such as emissions from vehicles used to collect and transport recyclables). This likely understates the full magnitude of benefits, as DEQ’s social cost assessment is limited to only 13 types of environmental impacts. Not included, for example, is one of the more profound impacts of these rules (and the Act), which is to reduce Oregon’s contribution of plastics waste into the oceans, rivers, and disadvantaged communities that may currently result from inadequate separation, processing and exports.
- Implementation of the Act will reduce such societal costs, but not all of those benefits have been quantified. Similarly, the stability offered to collection programs and waste generators associated with uniform, statewide acceptance lists, and the emotional benefits that individuals realize from increased confidence that the materials they separate for recycling will be managed in responsible ways, offer the potential for additional economic benefits that DEQ has not attempted to quantify.

### **Anticipated Business Impacts**

The impacts of these rules are anticipated to be proportionately similar for most businesses regardless of their size. The Act itself provides exemptions for small businesses, although the definition of “small business” in the Act differs from the definition used for this document. The proposed rules do not address those exemptions. DEQ estimates that there are 11 commingled recycling processing facilities operating in the state, but currently does not have the information to distinguish how many fall under the “large” or “small” category.

### **Large businesses: Businesses with more than 50 employees**

Based on membership data provided by the Oregon Refuse and Recycling Association on March 6, 2023, DEQ can provide an estimate of the service providers that would be considered a large business for the purposes of this section and are anticipated to be impacted by the proposed rules. The estimates of cost of compliance by the proposed rules to large businesses apply to the following industry sectors: producers of covered products, processors of materials, and waste service providers.

<b>Large Business/ Sector Type</b>	<b>Business Count</b>
Service Providers	8
Commingled recycling processing facilities	This information is currently unavailable.
Producers of covered products	This information is currently unavailable

### **A. Local Government Compensation Rules**

DEQ proposes three rules associated with local government compensation, transportation costs reimbursement, recycling service expansion and contamination reduction programming. These rules are anticipated to have both fiscal impacts to large businesses.

#### **I. Transportation Costs Reimbursement**

At this time, DEQ is unable to determine the total cost associated with the transportation cost reimbursement rule to large businesses.

The proposed transportation costs reimbursement rules are anticipated to have positive fiscal impacts on “large” service providers operating within Oregon. Transportation costs paid by PRO(s) will provide these companies operating a recycling depot and/or a recycling reload facility compensation for transportation when they must transport recyclable materials 50 miles or more to reach a commingled recycling processing facility or a responsible end market. This ensures that it will not be cost prohibitive for a collection company to move low-value material(s) to market.

Commingled recycling processing facilities or, processors, who are considered large businesses should not be directly impacted by the transportation cost reimbursement. The provision of freight reimbursement should make it more viable for distant communities to collect materials for recycling. This should increase the tonnage of material ultimately directed to commingled recycling processing facilities, and the financial opportunity associated with processing and marketing such materials.

DEQ anticipates indirect fiscal impacts of the transportation costs reimbursement rules on large businesses that meet the Act’s definition of a producer. The Act requires that producers pay fees for the total amount of eligible covered product(s) they sell, offer to sell or distribute in or into Oregon to the PRO(s). Expenses incurred by the PRO(s) will be compensated by the PRO’s members, but DEQ is unable to provide an estimate of those membership fees at this time.

#### **II. Recycling Service Expansion**

At this time, DEQ is unable to determine the total fiscal impacts to large businesses associated with service expansion because these costs will be informed by a Needs Assessment survey currently in progress.

The proposed recycling service expansion rules are anticipated to have positive fiscal impacts for service providers. The PRO(s) will be responsible for certain costs associated with the expansion and provision of recycling collection services, including for on-route and at depots. For on-route expansion, ongoing labor costs are not an eligible expense and may impose fiscal impacts. However, for depot expansion, ongoing operational costs, such as labor, will be eligible for funding from the PRO(s).



It is anticipated that commingled recycling processing facilities will experience a positive fiscal impact from the proposed service expansion rules because newly established or expanded on-route and depot collection programs, statewide, will lead to an increased volume of material being brought to commingled recycling processing facilities. This will result in more material for commingled recycling processing facilities to handle, market and profit from.

### **III. Contamination Reduction Programming**

As discussed previously the proposed rules clarify which census data must be referenced and clarifies the administrative procedures for reimbursement. DEQ does not anticipate fiscal impacts to large businesses related to these rules.

#### **B. Recycling Acceptance Lists Rules**

The proposed materials acceptance list rules will create fiscal impacts on waste and recycling collection companies. Costs associated with collecting materials on the proposed Uniform Statewide Collection List are expected to be several million dollars higher each year than collection costs would be for a less comprehensive list. At the same time, as materials shift from the garbage stream into the commingled collection system, garbage collection, transfer and disposal costs are expected to decrease.

The materials acceptance list rules are anticipated to have fiscal impacts on commingled recycling processing facilities. DEQ expects that new facilities may be built, and existing facilities will be required to invest in upgrades, new equipment and implement new procedures to process the materials proposed for inclusion in the Uniform Statewide Collection List. The higher costs associated with processing larger volumes and a more complicated list should be compensated by fees paid by the PRO(s) to processing facilities under ORS 459A.920 (Contamination Management Fee) and 459A.923 (Processor Commodity Risk Fee). In some cases, higher costs associated with equipment will be offset by savings as mechanization replaces manual labor.

The proposed rules will have fiscal impacts on businesses that are classified as “producers” of covered products. The PRO(s) will charge membership fees to their producer members based on the quantities of different materials they sell into Oregon and the costs that each material imposes upon the PRO(s). The membership fee schedule will be established by the PRO(s) and DEQ is unable to estimate the impact of proposed rules on the producer membership fees. (Please see “PRO Obligations Rules” below for additional discussion of these impacts.)

#### **C. PRO Obligations Rules**

The proposed rules related to the PRO obligations are anticipated to have indirect fiscal impacts on large businesses that are producers of covered products and do not qualify for a small producer exemption. The producers of covered products will be required to join and pay membership fees to PRO(s) that will establish the membership fee schedule and administer a producer responsibility program.

The proposed rules require that the PRO(s) structure its fee schedule to cover its costs, and in a multi-PRO scenario, the PRO's overall costs will be proportional to its modified market share, the formula being proposed in rule.

The PRO(s) will be establishing the membership fees and at this time, DEQ has not estimated the projected costs to individual producers.

**Small businesses: Businesses with 50 or fewer employees**

The impacts of the proposed rules on small businesses will be similar to large businesses as discussed above, although the impacts should be proportionately smaller. Additionally, the Act provides for an exemption for small producers from the requirement to join and pay fees to a PRO(s). The exemption applies to producers that sell less than one metric ton of covered product into Oregon each year, or which have global revenues of \$5 million or less.

**ORS 183.336 Cost of Compliance Effect on Small Businesses**

**a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.**

Small business/sector type	Count of Small Businesses
Service Providers	40
Commingled Recycling Processing facilities	This information is not currently available.
Producers of covered products	This information is not currently available.

The types of industries subject to the requirements of these proposed rules include service providers, processing facilities, and producers of covered products, as those terms are defined in ORS 459A.863 and 459A.866. DEQ has not performed a market analysis to estimate the number of businesses, small or large, who meet these defined criteria as part of this proposed rulemaking. Of the small business sectors that will be impacted by proposed rules, the producers of covered products will be obligated to pay a membership fee to the PRO(s).

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

The costs incurred by small businesses that are producers of covered products will be based on the fees and processes established by the PRO(s), not DEQ. DEQ does anticipate some costs associated with the labor and administration of providing PRO-requested information, to be incurred by small businesses. Such requirements are not the subject of this rulemaking.

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

The costs incurred by small businesses will be based on the fees and processes established by the PRO(s), not DEQ. DEQ does anticipate some costs associated with the labor and administration of providing PRO-requested information, to be incurred by small businesses.

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

The RAC convened for this rulemaking included representatives of small businesses and membership organizations. The proposed rules are based on legislation that included significant engagement with potentially affected parties, including small businesses.

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

Document title	Document location
Plastic Pollution and Recycling Modernization Act (Senate Bill 582, 2021)	<a href="#">Oregon Legislature website, SB 582</a>
Overview of Scenario Modeling: Oregon Plastic Pollution and Recycling Modernization Act (Cascadia Consulting Group, Mar. 14 2023)	<a href="#">DEQ Recycling website</a>
Memo: Impact of Extended Producer Responsibility Fees for Packaging and Printing Paper on Price of Consumer Packaged Goods (RRS, Feb. 19 2021)	<a href="#">DEQ Recycling website</a>
Supplemental Information: Selected Responses to DEQ’s Recycling Acceptance Lists Request for Information	<a href="#">DEQ Recycling website</a>
Supplemental Information: Recyclability of Paper Cans	<a href="#">DEQ Recycling System Advisory Council website</a>
Materials Lists Technical Workgroup: Comparative Life Cycle Assessment of Expanded Polystyrene Dispositions	<a href="#">DEQ website</a>
Materials Lists Technical Workgroup: Comparative Life Cycle Assessment of Glass Collection and Recycling	<a href="#">DEQ website</a>

## **Advisory committee fiscal review**

DEQ appointed an advisory committee for this rulemaking process. The advisory committee met on April 11, 2023, to discuss the fiscal impact statement.

As ORS 183.33 requires, 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 adverse impact on small businesses; if so, then how DEQ can comply with ORS 183.540 reduce that impact.

Advisory committee members were asked to review and provide comment on a draft fiscal impact statement. The current draft has been revised in response to some of the comments received. Overall, committee members did not find that there would be significant impact on small businesses in Oregon but that the analysis could go further in examining impacts to the informal sector, depots, consumers, and rate payers. A summary of their comments can be found in the April 11, 2023, written meetings notes from the sixth RAC meeting, available on the Recycling 2023 [rulemaking webpage](#). The comments included:

- DEQ should provide the reference documents' page numbers in the citations.
- DEQ should consider the potential for job loss.
- Acknowledgement that it is difficult for policy makers to fully understand the full economic impacts of such an undertaking.
- Processors and small business will be impacted, however, they have been included throughout this process. An advantage for some small businesses is that they will be well positioned to adapt.
- Anticipation that there may be fewer jobs but the jobs that remain will be more specialized and will pay higher wages.
- The analysis did not consider potential changes for rate payers, and the statement should be more nuanced to reflect the differences across communities, where some may experience rate increases while others may not.
- The analysis should consider the impacts to consumers.
- The potential for automation does not necessarily need to eliminate jobs, and more work could be done to sustain current employment regardless of automation.
- Impacts on depots should be addressed more directly in this analysis.

### **Enter specifics about the committee's fiscal impact review.**

The committee determined the proposed rules would not have a significant adverse impact on small businesses in Oregon. During the RAC meeting held on April 11, 2023, the committee was asked to consider the following questions:

- Is there a fiscal impact for certain entities, and if so, what is the extent of those impacts?
- Is there a significant impact on small businesses, and how can they be mitigated?

Overall, the committee did not object to the fiscal impacts of the proposed rules. Relatedly, there was some discussion and questions about DEQ's evaluation process and other impacts that the act will have on job loss, depots, impacts to costs to consumers and on collection rates. One Committee member asked how DEQ assessed potential job loss in the evaluation of fiscal impacts and stated that the anticipated changes to the recycling system make it too complex to be able to fully calculate.

Another Committee member confirmed that there will be impacts on small processors, but stated that for small processors, being able to adapt and change will be easier for them compared to larger facilities.

The gaps in understanding the impacts to the future costs of consumers and job loss through automation was also discussed. Impacts to depots who are unable to register or enter meet the criteria to be considered eligible was another concern expressed by a committee member. DEQ was asked to consider having more flexible registration deadlines to allow depots who may not otherwise qualify to participate in the new system.

Another committee member disagreed with DEQ's statement that there could be a decrease in service collection rates. The shift of materials from those that were collected as trash to recycling, that do not provide revenue, will impact some areas and may result in rate increases.

## **Housing cost**

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would influence the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel.

DEQ determined the proposed rules would have minimal impacts on these development or construction activities. The proposed rules and related fees would be paid largely by PRO(s), which would be funded through membership fees paid by the producers of specific types of products sold in Oregon. Producers of packaged products, including construction materials, may recover their membership fee expenses by passing those costs on to customers, such as wholesalers, retailers or homebuilders. In theory, this could result in higher retail prices for packaged goods such as plumbing and lighting fixtures. Evidence for these types of price impacts is anecdotal, inconsistent, and not well documented. Further, the price of packaging contributes relatively little to the cost of home construction and even less to the development costs of land. It is further unlikely that those producers or the PRO(s) would modify business operations or take other actions that would have other effects on housing costs or activities. Finally, any such cost increases might be offset by cost reductions associated with the expanded availability of no-fee recycling opportunities, as well as potential reductions in garbage/recycling fees as discussed previously.

DEQ determined the proposed rules would have no effect on the development costs because the price of packaging contributes relatively little to the cost of home construction and even less to the development costs of land. It is further unlikely that those producers or the PRO(s) would modify business operations or take other actions that would have other effects on housing costs or activities.

# Racial Equity

ORS 183.335(2)(a)(F) requires state agencies to provide a statement identifying how adoption of this rule will affect racial equity in Oregon.

The scope of this racial equity impact statement is for the proposed rules developed for the first rulemaking of the Plastic Pollution and Recycling Modernization Act. This is the first of two planned rulemakings, and the proposed rules would change Oregon's recycling requirements to meet the directives and objectives of the Act (Senate Bill 582, 2021). Each change or new provision may have an individual impact while also having an overall, cumulative impact.

This state- and system-wide update will make recycling easier for the public to use, expand access to recycling services, result in upgrades to the facilities that sort recyclables, and create environmental benefits while reducing social and environmental harms, such as plastic pollution. This rulemaking addresses multiple topics including PRO obligations, local government compensation, and the materials acceptance lists. Within each topic, DEQ finds that there are likely positive racial equity impacts and does not anticipate any negative racial equity impacts.

## **I. Producer Responsibility Organization Obligations: Responsible End Markets**

The discrepancy between the quantity of materials generated and marketed to end markets, and the ability of those markets to deal with the materials in ways that do not harm public health or the environment, is an on-going issue within the recycling industry. DEQ's proposed rules regarding responsible end markets support the Act's objectives to benefit Oregon's environment and minimize risk to public health and worker safety. By requiring that materials collected for recycling in Oregon all go to responsible end markets, as defined in the law and further subject to criteria established by DEQ through this rulemaking, the proposed rules are designed to improve the environmental and social benefits of recycling.

These proposed rules could address negative impacts of recycling facilities upon adjacent communities, which are more likely to include communities of color due to systemically racialized zoning and land use practices. By requiring PRO(s) and commingled processing recycling facilities to send waste only to responsible end markets, as defined in the proposed rules, DEQ expects to achieve public health, social and environmental benefits for communities disproportionately burdened by the processing and disposition of recycled materials.

## **II. Local Government Compensation**

The proposed rules would create funding structures to improve recycling opportunities, particularly for communities and individuals across Oregon underserved by the current system. This includes tenants in multifamily buildings, and residents in exurban and rural communities and other areas that are located far from major recycling infrastructure, which

is primarily located in the Portland area. In Oregon, these groups make up 12.5 percent of low income and minority community members<sup>6</sup>, who are disproportionately non-white.

The funding structures established through the Act, and clarified in these proposed rules will benefit underserved communities by:

- Providing local governments or a local government's service provider(s) with funding to cover the capital costs associated with either establishing or expanding an on-route program for collection of recyclable materials (RMA covers the single-family, commercial and multifamily sectors), or covering start-up and operational costs associated with recycling depots.
- Reducing financial barriers for getting recyclables from distant areas to commingled recycling processing facilities or responsible end markets by providing financial support for the transportation of collected materials. This should significantly equalize recycling costs between different areas of the state.
- Creating standards and requirements for non-urban communities to provide recycling services to their residents, consistent with services available in urbanized portions of the state.

### **III. Recycling Acceptance Lists**

These proposed rules would improve equity of service for all communities across Oregon by requiring the acceptance of materials on a uniform statewide collection list, regardless of location or proximity to recycling facilities. The recommended convenience standards for materials on the PRO Recycling Acceptance List will further expand recycling communities in all counties of Oregon. Additional standards ensure that at least some collection points will be accessible to users of public transit, and that cities with multiple collection points must have those collection points distributed throughout the community. Performance standards will help to ensure that collection points are maintained and avoid litter or other hazards, regardless of neighborhood or location. The creation of uniform lists also allows for clear and consistent information and messaging to all people across Oregon, including the availability of information in languages other than English to ensure compliance with state and federal laws for meaningful and equitable access to government services. The intent is to distribute more standardized benefits, including improved access to recycling, and reduce disproportionate burdens across communities.

## **Advisory committee review of racial equity impact**

DEQ asked for the committee's input on how adoption of this rule would affect racial equity in this state.

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<sup>6</sup> Kaiser Family Foundation, 2021, Poverty by Race/Ethnicity:  
<https://www.kff.org/other/state-indicator/poverty-rate-by-raceethnicity/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>



The committee members were asked to review and provide comment on the draft racial equity statement and their comments are also summarized in the sixth RAC written meeting summary. The comments provided during the meeting included:

- DEQ was asked to consider impacts to economic opportunities for the informal collection sector.
- DEQ was asked to consider potential job loss at material recovery facilities for positions typically filled disproportionately by people of color.
- A question about whether the rules have unintentionally excluded tribal governments from being eligible for funding.
- A question about whether DEQ's process for conducting this analysis include any consultation with groups representing impacted BIPOC communities.
- The analysis did not include impacts to laborers and collectors from the informal sector.
- A question about whether the analysis should consider the limited availability of data and difficulty collecting data around multi-family recycling.
- A question about whether there was any analysis conducted on the potential cost to consumer goods and the impacts they may have.

## **Federal relationship**

ORS 183.332, 468A.327 and OAR 340-011-0029 require DEQ to attempt to adopt rules that correspond with existing equivalent federal laws and rules unless there are reasons not to do so.

The proposed rules are not different from or in addition to federal requirements.

## **What alternatives did DEQ consider if any?**

DEQ did not consider alternatives because this rulemaking is proposing new rules.

# 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, objects, or areas identified in the statewide planning goals, or
  - Present or future land uses identified in acknowledge comprehensive plans

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

<b>Goal</b>	<b>Title</b>
5	Natural Resources, Scenic and Historic Areas, and Open Spaces
6	Air, Water and Land Resources Quality
11	Public Facilities and Services
16	Estuarine Resources
19	Ocean Resources

Statewide goals also specifically reference the following DEQ programs:

- Nonpoint source discharge water quality program – Goal 16
- Water quality and sewage disposal systems – Goal 16
- Water quality permits and oil spill regulations – Goal 19

## Determination

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

# EQC Prior Involvement

DEQ shared a general rulemaking update with the EQC as an information item at the September 2022 EQC meeting.

# Advisory Committee

## Background

DEQ convened the Plastic Pollution and Recycling Modernization Act rulemaking advisory committee. The committee included representatives from local governments, collection service providers, industry, and environmental groups and met six times. For more information, please visit the [committee's web page](#).

<b>Recycling Modernization Act Rulemaking Advisory Committee</b>	
<b>Name</b>	<b>Representing</b>
Trevor Beltz	Tillamook County Creamery Association
Udara Abeseykera Bickett (replaced by Mike Riley meeting 2 and Lindsay Hardy meeting 5)	The Environment Center
Tim Brownell (replaced Katy Nesbitt, Wallowa County)	Deschutes County
Rosalynn Greene	Metro
Sydney Harris (replaced by Scott Cassell meetings 4-6)	Product Stewardship Institute
Allen Langdon	Circular Materials
Michael McHenry (replaced by Stephen Henry meeting 2)	Pendleton Sanitary Service, Inc.
Kristan Mitchell	Oregon Refuse and Recycling Association
Jeff Murray	EFI Recycling Inc.
Deveron Musgrave	City of Eugene
Jerry Powell	Residents
Mallorie Roberts (replaced by Michael Burdick meetings 3-6)	Association of Oregon Counties
Jared Rothstein (replaced by Lauren Janes meetings 3-6)	Consumer Brands Association
John Salvador	Georgia-Pacific Professional
Craig Smith (replaced by Pam Barrow meetings 5 and 6)	Food Northwest
Paloma Sparks (replaced by Scott Bruun meetings 4-6)	Oregon Business and Industry
Taylor Cass Talbott	Trash for Peace
Nicole Willett (replaced by Maria Constantinou meetings 4 and 5)	Green for Life

## **Meeting notifications**

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

- Sent GovDelivery bulletins, a free e-mail subscription service, to the following lists:
  - Rulemaking
- Reminded all attendees at each rulemaking advisory committee meeting that they could sign-up for the GovDelivery bulletin to receive updates about the rulemaking.
- Posted information regularly on DEQ's recycling rulemaking webpage
- Added advisory committee announcements to DEQ's calendar of public meetings at [DEQ Calendar](#).

## **Committee discussions**

In addition to the recommendations described under the Statement of Fiscal and Economic Impact section above, the committee was asked to discuss and provide input on proposed rule concepts and the draft rules. Agendas, meeting materials, and meeting summaries are available on the rulemaking webpage.

# Public Engagement

## Public notice

DEQ provided notice of the proposed rulemaking and rulemaking hearing by:

- On May 25, 2023 Filing notice with the Oregon Secretary of State for publication in the June 2023 Oregon Bulletin;
- Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at: [Recycling Updates 2023](#);
- Emailing approximately 23,906 interested parties on the following DEQ lists through GovDelivery:
  - Rulemaking
  - DEQ Public Notices
  - Recycling Modernization Act
- Emailing the following key legislators required under [ORS 183.335](#):
  - Senator Michael Dembrow, Chair, Senate Education Committee, Co-Chair, Joint Committee on Ways and Means Subcommittee on Natural Resources, Co-Chair, Environmental Caucus
  - Senator Janeen Sollman, Co-Chair, Joint Committee on Ways and Means Subcommittee on General Government
  - Senator Lynn P. Findley
  - Representative Pam Marsh
  - Representative Susan McLain
- Emailing advisory committee members,
- Posting on the DEQ event calendar: [DEQ Calendar](#)

## How to comment on this rulemaking proposal

DEQ is asking for public comment on the proposed rules. Anyone can submit comments and questions about this rulemaking. A person can submit comments through email, postal mail or verbally at the public hearing(s).

- Email: Send comments by email to [recycling.2023@deq.oregon.gov](mailto:recycling.2023@deq.oregon.gov)
- Postal mail: Oregon DEQ, Attn: Roxann Nayar/Materials Management, 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232-4100
- At the public hearing(s): 11 a.m., Tuesday, June 27, 2023, or, 5 p.m., Thursday, June 29, 2023.

## Comment deadline

DEQ will only consider comments on the proposed rules that DEQ receives by 4 p.m. Pacific Time, on **July 6, 2023**.

## Note for public university students:

ORS 192.345(29) allows Oregon public university and OHSU students to protect their university email addresses from disclosure under Oregon's public records law. If you are an Oregon public university or OHSU student, notify DEQ that you wish to keep your email address confidential.

# Public Hearing

DEQ plans to hold two public hearings as part of this notice. The public hearings are online and by teleconference only. Anyone can attend a hearing by teleconference, held using Zoom, an online meeting platform. Toll-free telephone access will be available for audio-only connections.

**11 a.m., Tuesday, June 27, 2023:**

Please [Register via Zoom](#) prior to the meeting:

**5 p.m., Thursday, June 29, 2023:**

Please [Register via Zoom](#) prior to the meeting:

After registering, you will receive a confirmation email with instructions on how to join the meeting. If you are unable to register online using the link above, please contact Roxann Nayar for more information on how to register and attend the hearing.

Email: Roxy. [Nayar@deq.oregon.gov](mailto:Nayar@deq.oregon.gov)  
Phone: 503-593-3306

DEQ will consider all comments and testimony received before the closing date. DEQ will summarize all comments and respond to comments in the Environmental Quality Commission staff report. DEQ intends to present these proposed rules at the November 16-17, 2023 regular EQC meeting.



## Alternate formats

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us).

DEQ does not discriminate on the basis of race, color, national origin, disability, age or sex in administration of its programs or activities. Visit DEQ's [Civil Rights and Environmental Justice page](#).

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# Draft Rules – Edits Incorporated

Plastic Pollution and Recycling Modernization Act 2023

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## DIVISION 90 RECYCLING AND WASTE REDUCTION

### **340-090-0005**

#### **Purpose**

OAR 340-090-0005 to 0510 establish the minimum requirements for providing the opportunity to recycle. These rules also describe the standards for waste prevention, reuse, recovery, and recycling programs in Oregon. The rules are adopted under the authority of ORS 459.045, 459A.025 and 468.020. These rules relate to the requirements of ORS 459.015, 459.250, 468.862 and Chapter 459A.

**Statutory/Other Authority:** ORS 459A.025, 459.045 & 468.020

**Statutes/Other Implemented:** ORS 459A.005, 459A.010, 459A.025 & 459A.575

#### **History:**

DEQ 3-2017, f. & cert. ef. 1-19-17

DEQ 31-1992, f. & cert. ef. 12-18-92, Renumbered from 340-060-0005

DEQ 26-1984, f. & cert. ef. 12-26-84

### **340-090-0010**

#### **Definitions**

The definitions in this rule apply to OAR 340-090-0005 to 0510, and OAR Chapter 340 Division 91. Unless otherwise specified:

(1) "Affected person" means a person or entity involved in the solid waste collection service process including but not limited to a recycling collection service, disposal site permittee or owner, city, county and metropolitan service district. For the purposes of these rules "affected person" also means a person involved in operation of a place to which persons not residing on or occupying the property may deliver source separated recyclable material.

(2) "Collection service" means a service that provides for collection of solid waste or recyclable material or both, but does not include that part of a business operated under a certificate issued under ORS 822.110. "Collection service" of recyclable materials does not include a place to which persons not residing on or occupying the property may deliver source separated recyclable material.

(3) "Collection service customers" includes: residential and commercial customers of a collection service as defined in ORS 459.005, and also, as of July 1, 2026, the multi-family

1 residential and commercial tenants of landlords or property managers that are customers of a  
2 collection service for the benefit of their tenants as defined in ORS 459A.005(3)(b).

3 (4) "Collector" means the person who provides collection service.

4 (5) "Commercial" means stores, offices including but not limited to manufacturing and  
5 industry offices, restaurants, warehouses, schools, colleges, universities, hospitals, prisons,  
6 and other institutions and non-manufacturing entities. "Commercial" does not include  
7 manufacturing activities or business, manufacturing, or processing activities in residential  
8 dwellings.

9 (6) "Composting" means the managed process of controlled biological decomposition of  
10 organic or mixed solid waste. It does not include composting for the purposes of soil  
11 remediation. Compost is the product resulting from the composting process. "Composting"  
12 includes both aerobic composting and anaerobic digestion.

13 (7) "Consumer of newsprint" means a person who uses newsprint in a commercial or  
14 government printing or publishing operation.

15 (8) "DEQ" means the Department of Environmental Quality.

16 (9) "Depot" means a place for receiving source separated recyclable material.

17 (10) "Director" means the Director of the Department of Environmental Quality.

18 (11) "Disposal site" means land and facilities used for the disposal, handling or transfer of or  
19 energy recovery, material recovery, and recycling from solid wastes, including but not  
20 limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for  
21 septic tank pumping or cesspool cleaning service, transfer stations, energy recovery  
22 facilities, incinerators for solid waste delivered by the public or by a collection service,  
23 composting plants and land and facilities previously used for solid waste disposal at a land  
24 disposal site ; but the term does not include a facility authorized by a permit issued under  
25 ORS 466.005 to 466.385 to store, treat or dispose of both a hazardous waste and solid waste;  
26 a facility subject to the permit requirements of ORS 468B.050; a site which is used by the  
27 owner or person in control of the premises to dispose of soil, rock, concrete or other similar  
28 nondecomposable material, unless the site is used by the public either directly or through a  
29 collection service; or a site operated by a wrecker issued a certificate under ORS 822.110.

30 (12) "Energy intensive materials" means metals, paper, plastic, and food, including products  
31 that are primarily made of metals, paper, or plastic, such as some furniture, small and large  
32 appliances, and consumer electronics.

33 (13) "Energy recovery" means recovery in which all or a part of the solid waste materials are  
34 processed to use the heat content, or other forms of energy, of or from the material.

35 (14) "EQC" means the Environmental Quality Commission.

- 1 (15) "Food rescue" means the practice of safely retrieving wholesome food still fit for  
2 human consumption that would otherwise be left unharvested or go to animal feed or a  
3 composting facility, anaerobic digestion facility, energy recovery facility, or other disposal  
4 site and redistributing that food through a food assistance program.
- 5 (16) "Food waste" means waste from fruits, vegetables, meats, dairy products, fish,  
6 shellfish, nuts, seeds, grains, and similar materials that results from the storage, preparation,  
7 cooking, handling, selling or serving of food for human consumption. "Food waste" includes  
8 but is not limited to excess, spoiled or unusable food and includes inedible parts commonly  
9 associated with food preparation such as pits, shells, bones, and peels. "Food waste" does  
10 not include dead animals not intended for human consumption or animal excrement.
- 11 (17) "Franchise" includes a franchise, certificate, contract or license issued by a local  
12 government unit authorizing a person to provide solid waste management services.
- 13 (18) "Generator" means a person who last uses a material and makes it available for disposal  
14 or recycling.
- 15 (19) "Glass container manufacturer" means a person that manufactures new glass containers  
16 in Oregon or that manufactures new glass containers outside Oregon sold by the  
17 manufacturer to packagers located in Oregon.
- 18 (20) "Industrial waste" means solid waste generated by manufacturing or industrial  
19 processes that is not a hazardous waste regulated under ORS Chapters 465 and 466. Such  
20 waste may include, but is not limited to, waste resulting from the following processes:  
21 Electric power generation; fertilizer/agricultural chemicals; food and related products/by-  
22 products; inorganic chemicals; iron and steel manufacturing; leather and leather products;  
23 nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins  
24 manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone,  
25 glass, clay and concrete products; textile manufacturing; transportation equipment; water  
26 treatment; and timber products manufacturing. This term does not include  
27 construction/demolition waste; or municipal solid waste from manufacturing or industrial  
28 facilities such as office or "lunch room" waste, or packaging material for products delivered  
29 to the generator.
- 30 (21) "Infrastructure support" means in-kind contributions in support of reuse, repair, leasing  
31 or sharing of efforts to reduce waste, such as: local government staff time; franchisee staff  
32 time; space at facilities owned, permitted, or franchised by a local government; space for  
33 meetings, storage, or display of materials; equipment; access to land; and access to vehicles.
- 34 (22) "Land disposal site" means a disposal site in which the method of disposing of solid  
35 waste is by landfill, dump, pit, pond, lagoon or land application.
- 36 (23) "Local government" means a political subdivision that regulates either solid waste  
37 collection, disposal, or both, including but not limited to incorporated cities, municipalities,  
38 townships, counties, parishes, regional associations of cities and counties, tribal reservations,  
39 and metropolitan service districts, but not including sewer districts, fire districts, or other  
40 political subdivisions that do not regulate solid waste.

- 1 (24) "Local government unit" means the territory of a political subdivision that regulates  
2 either solid waste collection, disposal, or both, including but not limited to incorporated  
3 cities, municipalities, townships, counties, parishes, regional associations of cities and  
4 counties, tribal reservations, and metropolitan service districts, but not including sewer  
5 districts, fire districts, or other political subdivisions that do not regulate solid waste. If a  
6 county regulates solid waste collection within unincorporated areas of the county but not  
7 within one or more incorporated cities or municipalities, then the county local government  
8 unit must be considered as only those areas where the county directly regulates solid waste  
9 collection.
- 10 (25) "Material recovery" means any process of obtaining from solid waste, by  
11 presegregation or otherwise, materials that still have useful physical or chemical properties  
12 and can be reused, recycled or composted for some purpose.
- 13 (26) "Metropolitan service district" means a district organized under ORS Chapter 268 and  
14 exercising solid waste authority granted to such district under ORS Chapters 268, 459, and  
15 459A.
- 16 (27) "Multi-family" means dwellings of five or more units.
- 17 (28) "Newsprint" means paper meeting the specifications for Standard Newsprint Paper and  
18 Roto Newsprint Paper as set forth in the 2023 HTSA Supplement edition of the Harmonized  
19 Tariff Schedule of the United States for such products. (See Figure 1.)
- 20 (29) "On-route collection" means pick up of source separated recyclable material from the  
21 generator at the place of generation.
- 22 (30) "On-site collection" has the same meaning as on-route collection.
- 23 (31) "Opportunity to recycle" means those activities described in OAR 340-090-0020, 340-  
24 090-0030, 340-090-0040, 340-090-0041, 340-090-0042, 340-090-0050 and 340-090-0080.
- 25 (32) "Permit" means a document issued by DEQ bearing the signature of the director or the  
26 director's authorized representative and that by its conditions may authorize the permittee to  
27 construct, install, modify, operate or close a disposal site in accordance with specified  
28 limitations.
- 29 (33) "Person" means the United States, the state or a public or private corporation, local  
30 government unit, public agency, individual, partnership, association, firm, trust, estate or  
31 other legal entity.
- 32 (34) "Post-consumer waste" means a finished material that would normally be disposed of as  
33 solid waste, having completed its life cycle as a consumer item. Post-consumer waste does  
34 not include manufacturing waste.
- 35 (35) "Recyclable material" means any material identified for recycling collection under ORS  
36 459A.914 or any other material or group of materials that can be collected and sold for

- 1 recycling at a net cost equal to or less than the cost of collection and disposal of the same  
2 material.
- 3 (36) "Recycled-content newsprint" means newsprint that includes post-consumer waste  
4 paper.
- 5 (37) "Recycling" means any process by which solid waste materials are transformed into  
6 new products in such a manner that the original products may lose their identity.
- 7 (38) "Residential" means single family dwellings and multi-family dwellings having four or  
8 fewer units.
- 9 (39) "Reuse" means the return of a commodity into the economic stream for use in the same  
10 kind of application as before without change in its identity.
- 11 (40) "Solid waste" means all useless or discarded putrescible and nonputrescible materials,  
12 including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage  
13 sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial,  
14 industrial, demolition and construction materials; discarded or abandoned vehicles or parts  
15 thereof; discarded home and industrial appliances; manure, vegetable or animal solid and  
16 semisolid materials, dead animals and infectious waste as defined in ORS 459.386. "Solid  
17 waste" does not include:
- 18 (a) Hazardous wastes as defined in ORS 466.005;
- 19 (b) Materials used for fertilizer, soil conditioning, humus restoration, or for other productive  
20 purposes or which are salvageable for these purposes and are used on land in agricultural  
21 operations and growing or harvesting crops and raising fowls or animals, provided the  
22 materials are used at or below agronomic application rates, or
- 23 (c) Woody biomass that is combusted as a fuel by a facility that has obtained a permit  
24 described in ORS 468A.040.
- 25 (41) "Solid waste management" means: preventing or reducing solid waste; managing the  
26 storage, collection, transportation, treatment, utilization, processing and final disposal of  
27 solid waste, recycling, reuse and material or energy recovery from solid waste; and facilities  
28 necessary or convenient to such activities.
- 29 (42) "Source separate" means that the person who last uses recyclable material separates the  
30 recyclable material from **other** solid waste.
- 31 (43) "Technical assistance" means assistance in support of reuse, repair, leasing or sharing  
32 provided to businesses or non-profit staff or programs, such as: program design and  
33 implementation; publicizing and promoting opportunities through channels such as  
34 directories of reuse and repair operations; research to support technical assistance efforts;  
35 and expending funds to hire specialists or contractors who provide information and advice in  
36 topics such as business planning, operations, facility design, market research, and marketing.

1 (44) "Toxic materials" means products or other materials that contain chemicals or groups of  
2 chemicals on DEQ's Toxics Focus List or that DEQ otherwise designates as "toxic."

3 (45) "Urbanized area" means, for jurisdictions within the State of Oregon, the territory  
4 within the urban growth boundary of each city of 4,000 or more population, or within the  
5 urban growth boundary established by a metropolitan service district. For jurisdictions  
6 outside the State of Oregon, "urbanized area" means a geographic area with substantially the  
7 same character, with respect to minimum population density and commercial and industrial  
8 density, as urbanized areas within the State of Oregon.

9 (46) "Waste prevention" means reducing the amount of solid waste generated or resources  
10 used, without increasing toxicity, in the design, manufacture, purchase or use of products or  
11 packaging. "Waste prevention" does not include reuse, recycling or composting.

12 (47) "Waste prevention campaign" means an organized effort intended to change one or  
13 more specific behaviors or practices that reduces the amount of solid waste generated or  
14 resource used without increasing toxicity in the design, manufacture, purchase, or use of  
15 products or packaging. A food rescue program is not a waste prevention campaign for the  
16 purpose of complying with sections OAR 340-090-0042(3) or (4).

17 (48) "Wasteshed" means the areas of the state of Oregon as defined in ORS 459.005 and  
18 listed in ORS 459A.010 and OAR 340-090-0050.

19 (49) "Yard debris" means vegetative and woody material generated from residential property  
20 or from commercial landscaping activities. This includes grass clippings, leaves, hedge  
21 trimmings and similar vegetative waste but does not include stumps or similar bulky wood  
22 materials.

23 [\[ED. NOTE: To view attachments referenced in rule text, click here to view rule.\]](#)

24 **Statutory/Other Authority:** ORS 459.045, 459A.100 - 459A.120 & 468.020

25 **Statutes/Other Implemented:** ORS 459A.005 & 459A

26 **History:**

27 [DEQ 48-2017, minor correction filed 12/14/2017, effective 12/14/2017](#)

28 DEQ 3-2017, f. & cert. ef. 1-19-17

29 DEQ 27-1998, f. & cert. ef. 11-13-98

30 DEQ 10-1994, f. & cert. ef. 5-4-94

31 DEQ 31-1992, f. & cert. ef. 12-18-92, Renumbered from 340-060-0010

32 DEQ 1-1989, f. & cert. ef. 1-27-89

33 DEQ 5-1988, f. & cert. ef. 2-2-88

34 DEQ 7-1987, f. & cert. ef. 3-18-87

35 DEQ 26-1984, f. & cert. ef. 12-26-84

36 **340-090-0015**

37 **Scope and Applicability**

38 (1) OAR 340-090-0005 to 0510 describes the requirements for waste reduction and  
39 recycling programs for residential and commercial solid wastes.

1 (2) The requirements in OAR 340-090-0005 to 0510 apply to local governments generally  
2 and where specified to landfill owners/operators, solid waste collection services, and other  
3 persons.

4 (3) OAR chapter 340, division 90 is adopted under the authorities in ORS Chapter 459 and  
5 459A and should be used in conjunction with the laws of the State of Oregon.

6 **Statutory/Other Authority:** ORS 459A.025, 459.045 & 468.020

7 **Statutes/Other Implemented:** ORS 459A.005, 459A.010, 459A.020, 459A.025, 459A.030,  
8 459A.035, 459A.040, 459A.050, 459A.055, 459A.060, 459A.065, 459A.070, 459A.075,  
9 459A.080, 459A.085, 459A.100, 459A.110, 459A.115 & 459A.120

10 **History:**

11 DEQ 3-2017, f. & cert. ef. 1-19-17

12 DEQ 31-1992, f. & cert. ef. 12-18-92 (and corrected 1-5-93)

13 **340-090-0020**

14 **Opportunity to Recycle**

15 The opportunity to recycle as set forth in ORS 459A.005, 459A.007, 459A.008 and  
16 459A.010, includes at a minimum the requirements described in OAR 340-090-0030, 340-  
17 090-0040, 340-090-0042, and 340-090-0050. The appropriate city, county, or metropolitan  
18 service district, may request approval of an alternative program for meeting the requirements  
19 of the opportunity to recycle under OAR 340-090-0080.

20 **Statutory/Other Authority:** ORS 459A.025, 459.045 & 468.020

21 **Statutes/Other Implemented:** ORS 459A.005

22 **History:**

23 DEQ 3-2017, f. & cert. ef. 1-19-17

24 DEQ 31-1992, f. & cert. ef. 12-18-92, Renumbered from 340-060-0020

25 DEQ 26-1984, f. & cert. ef. 12-26-84

26 **340-090-0030**

27 **General Requirements**

28 (1) The city, county, or metropolitan service district responsible for solid waste management  
29 must ensure that a place for collecting source separated recyclable materials identified in  
30 OAR 340-090-0630(4)(a) is located at each permitted disposal site or located at an  
31 alternative location in the jurisdiction that is more convenient to the population being served  
32 by the disposal site.

33 (2) Effective July 1, 2025 to January 1, 2027, a city, county or metropolitan service district,  
34 a local government's service provider or a commingled recycling reload facility may not  
35 deliver to a commingled recycling processing facility commingled recyclables that were  
36 collected pursuant to the uniform statewide collection list established under ORS 459A.914  
37 unless:



1 (a) At the time the city, county or metropolitan service district, the local government's  
2 service provider or the comingled recycling reload facility delivered or contracted to deliver  
3 or transport materials to the comingled recycling facility:

4 (A) the comingled recycling facility held a valid permit issued under ORS 459A.955; or

5 (B) For a comingled recycling facility located outside of this state:

6 (i) The facility held a valid certificate issued under ORS 459A.956; or

7 (ii) The facility certified that it otherwise met the requirements of ORS 459A.955 or  
8 459A.956, even though the facility did not hold a permit or certificate.

9 (b) Within six months after the DEQ completes a report under ORS 459A.932, the  
10 comingled recycling processing facility has taken steps to implement any  
11 recommendations of the report related to providing opportunities in the recycling industry  
12 for women and minority individuals as defined in ORS 200.005.

13 (3) Effective January 1, 2027, a city, county or metropolitan service district, a local  
14 government's service provider or a comingled recycling reload facility may not deliver to  
15 a comingled recycling processing facility comingled recyclables that were collected  
16 pursuant to the uniform statewide collection list established under ORS 459A.914 unless:

17 (a) At the time the city, county or metropolitan service district, a local government's service  
18 provider or the comingled recycling reload facility delivered or contracted to deliver or  
19 transport materials to the comingled recycling facility:

20 (A) the comingled recycling facility held a valid permit issued under ORS 459A.955; or

21 (B) For a comingled recycling facility located outside of this state:

22 (i) The facility held a valid certificate issued under ORS 459A.956; or

23 (ii) The facility certified that it otherwise met the requirements of ORS 459A.955 or  
24 459A.956, even though the facility did not hold a permit or certificate.

25 (b) The processor ensures the health, safety and wellness of workers at the facility regardless  
26 of whether the workers are employees, independent contractors or employees of another  
27 business.

28 (c) The processor provides workers at the facility with a living wage and supportive benefits,  
29 as defined by the rule by the Environmental Quality Commission.

30 (d) Within six months after the DEQ completes a report under ORS 459A.932, the  
31 comingled recycling processing facility has taken steps to implement the  
32 recommendations of the report related to providing opportunities in the recycling industry  
33 for women and minority individuals as defined in ORS 200.005.

1 (4) Effective January 1, 2026 a city, county, or metropolitan service district shall ensure that  
2 rolcars, bins and containers purchased by its service providers are manufactured from at  
3 least 10 percent post-consumer recycled material and are certified by an independent  
4 verification standard, such as the Postconsumer Resin Certification Program established by  
5 the Association of Plastics Recyclers.

6 (5) Effective July 1, 2025, except as provided by ORS 459A.914(6), a material may not be  
7 collected as part of a commingled recycling program unless the material is identified for  
8 collection as part of a commingled recycling program on the uniform statewide collection  
9 list.

10 (6) For purposes of sections (2) through (5) of this rule the terms “commingled recycling,”  
11 “commingled recycling processing facility,” “local government’s service provider,” and  
12 “recycling reload facility” have the meaning provided by ORS 459A.863.

13 (7) Each city that is within a metropolitan service district or with a population of at least  
14 4,000 and each county that is responsible for the area between city limits and the urban  
15 growth boundary of the city or the area outside the city limits but within a metropolitan  
16 service district shall:

17 (a) Provide on-route collection service for source separated recyclable materials identified in  
18 OAR 340-090-0630(4)(b) at least once a month for all collection service customers within  
19 the city limits and within the urban growth boundary or metropolitan service district but  
20 outside of the city limits-, or provide an alternative method that complies with OAR 340-  
21 090-0080.

22 (b) Effective July 1, 2026 for the recycling collection of materials identified on the uniform  
23 statewide collection list at multifamily properties:

24 (A) Ensure adequate space for collection.

25 (B) Demonstrate a plan to ensure adequate space and access for collection vehicles after new  
26 construction or significant remodels. The plan shall be submitted, reviewed, and approved  
27 by the city, county, or their designated local government service provider, before any new  
28 construction or significant remodeling occurs.

29 (C) Update or establish service standards for service providers to provide adequate service  
30 volume or collection frequency, or a combination of both.

31 (D) Ensure that container placement is accessible to residents, including children and  
32 individuals who use a wheelchair. To do this, property owners will use ADA or other  
33 existing access models to ensure safety, as well as accessibility, for all residents.

34 (E) Report on activities to meet the requirements of this subsection in the periodic report  
35 submitted according to the requirements of OAR 340-090-0100.

36 (c) To the extent that funding is provided under ORS 459A.890(4), establish and implement,  
37 or cause to be established and implemented, a program to reduce contamination that:

- 1 (A) Includes one or more local recycling contamination reduction goals that are consistent  
2 with the statewide goals established by the DEQ pursuant to ORS 495A.929(1)(a).
- 3 (B) Causes collected source separated recyclables to undergo periodic evaluation of  
4 collected material quality and contamination, in accordance with forms and procedures  
5 established by the Department of Environmental Quality under ORS 459A.959.
- 6 (C) Includes:
- 7 (i) At least one of each of the three types of contamination reduction program elements  
8 contained on the list established by the DEQ pursuant to ORS 459A.929(1)(c), or
- 9 (ii) Uses materials or methods that are at least as effective as materials or methods approved  
10 by DEQ pursuant to ORS 459A.929(1)(c).
- 11 (D) Includes, at least once every five years, a process for reviewing, and revising as  
12 appropriate, the local goals and local elements established under this subsection.
- 13 (8) The city or county responsible for solid waste management must carry out a public  
14 education and promotion program that meets the following minimum requirements:
- 15 (a) An initial written or more effective notice or combination of both that is reasonably  
16 designed to reach each residential and commercial generator of recyclable materials, and  
17 that clearly explains why people should recycle, the recycling opportunities available to the  
18 recipient, the materials that can be recycled and the proper preparation of those materials for  
19 recycling. The notice must include the following specific information:
- 20 (A) Reasons why people should recycle; and
- 21 (B) Name, address and telephone number of the person providing on-route collection where  
22 applicable; and
- 23 (C) Listing of depots for recyclable materials at all disposal sites serving the area and any  
24 alternative DEQ-approved more convenient locations, including the materials accepted and  
25 hours of operation; or
- 26 (D) Instead of paragraphs (B) and (C) of this subsection a telephone number and a website  
27 address to find information about depot locations and collection service as appropriate.
- 28 (b) Existing residential and commercial collection service customers must be provided  
29 information, at least semi-annually, through a written or more effective notice or  
30 combination of both, listing the materials collected, the schedule for collection, proper  
31 method of preparing materials for collection and an explanation of the reasons why source  
32 separation of materials for recycling is necessary;
- 33 (c) Written information to be distributed to disposal site users at all disposal sites or,  
34 alternatively, more convenient locations with attendants and where it is otherwise practical.  
35 The written information must include the following:

- 1 (A) Reasons why people should recycle; and
- 2 (B) List of materials that can be recycled; and
- 3 (C) Instruction for the proper preparation of recyclable materials.
- 4 (d) At sites without attendants, a sign indicating availability of recycling at the site or at the
- 5 more convenient location must be prominently displayed that indicates materials accepted
- 6 and hours of operation;
- 7 (e) Identify and establish a procedure for citizen involvement for the development and
- 8 implementation of an education and promotion program;
- 9 (f) Notification and education materials provided to local media and other groups that
- 10 maintain regular contact with commercial and residential generators and the public in
- 11 general, including local newspapers, trade publications, local television and radio stations,
- 12 community groups, and neighborhood associations;
- 13 (g) A person identified as the education and promotion representative for the appropriate
- 14 jurisdiction to be the official contact to work with the other affected persons in matters
- 15 relating to education and promotion for recycling.
- 16 (h) A local government that provides the opportunity to recycle or the local government's
- 17 service provider shall utilize and distribute educational resources developed under ORS
- 18 459A.893(1). A local government or the local government's service provider may
- 19 incorporate the educational resources developed under this section into an existing education
- 20 program developed to satisfy the requirements of ORS 459A.007 and 459A.008.

21 **Statutory/Other Authority:** ORS 459.045, 459A.100 - 459A.120 & 468.020  
 22 **Statutes/Other Implemented:** ORS 459A.005, 459A.007, 459A.010, 459A.896,  
 23 459A.905, 459A.908, 459A.911, 459A.914 & 459A.929.

24 **History:**  
 25 DEQ 10-2017, minor correction filed 10/27/2017, effective 10/27/2017  
 26 DEQ 3-2017, f. & cert. ef. 1-19-17  
 27 DEQ 10-1994, f. & cert. ef. 5-4-94  
 28 DEQ 31-1992, f. & cert. ef. 12-18-92, Renumbered from 340-060-0020 & 340-060-0040  
 29 DEQ 26-1984, f. & cert. ef. 12-26-84

30 **340-090-0040**  
 31 **Local Government Recycling Program Elements**

32 (1) In addition to the minimum requirements in OAR 340-090-0030 and 340-090-0042, each  
 33 city with a population of 4,000 or more and any county responsible for the area between the  
 34 city limits and the urban growth boundary of that city, or the area outside the city limits but  
 35 within a metropolitan service district, must implement recycling program elements from  
 36 section (3) of this rule based on the following requirements:

37 (a) For cities within a metropolitan service district:

1 (A) The three recycling program elements set forth under subsections (3)(a), (b) and (c) of  
2 this rule and at least four additional elements set forth under section (3) of this rule;

3 (B) At least eight recycling program elements set forth under section (3) of this rule; or

4 (C) An alternative program approved by DEQ that meets the requirements of OAR 340-090-  
5 0080.

6 (b) For cities with a population of at least 4,000 but not more than 10,000 that are located  
7 120 miles or less from the City of Portland:

8 (A) At least four recycling program elements set forth under section (3) of this rule; or

9 (B) An alternative program approved by DEQ that meets the requirements of OAR 340-090-  
10 0080.

11 (c) For cities with a population of at least 4,000 but not more than 10,000 that are more than  
12 120 miles from the City of Portland:

13 (A) At least three recycling program elements set forth under section (3) of this rule; or

14 (B) An alternative program approved by DEQ that meets the requirements of OAR 340-090-  
15 0080.

16 (d) For cities with a population of more than 10,000 but not more than 50,000 that are  
17 located 150 miles or less from the City of Portland:

18 (A) The three recycling program elements set forth under subsections (3)(a), (b) and (c) of  
19 this rule and at least two additional elements set forth under section (3) of this rule;

20 (B) At least six recycling program elements set forth under section (3) of this rule; or

21 (C) An alternative program approved by DEQ that meets the requirements of OAR 340-090-  
22 0080.

23 (e) For cities with a population of more than 10,000 that are located more than 150 miles  
24 from the City of Portland:

25 (A) The three recycling program elements set forth under subsections (3)(a), (b) and (c) of  
26 this rule and at least one additional element set forth under section (3) of this rule;

27 (B) At least five recycling program elements set forth under section (3) of this rule; or

28 (C) An alternative program approved by DEQ that meets the requirements of OAR 340-090-  
29 0080.

30 (f) For cities with a population of more than 50,000 that are located 150 miles or less from  
31 the City of Portland:

- 1 (A) The three recycling program elements set forth under subsections (3)(a), (b) and (c) of  
2 this rule and at least three additional recycling program elements set forth under section (3)  
3 of this rule;
- 4 (B) At least seven recycling program elements set forth under section (3) of this rule; or
- 5 (C) An alternative program approved by DEQ that meets the requirements of OAR 340-090-  
6 0080.
- 7 (g) A local government that is not subject to ORS 459.007(6) or (7) or OAR 340-090-0042  
8 may substitute for one recycling program element set forth under section (3) of this rule:
- 9 (A) The waste prevention and reuse program element set forth under OAR 340-090-0042(2);  
10 and
- 11 (B) At least two additional waste prevention and reuse program elements set forth under  
12 OAR 340-090-0042.
- 13 (2) For determining a city's distance in miles from the City of Portland under section (1) of  
14 this rule, DEQ must use the current mileage table or comparable current mileage statistics  
15 from the Oregon Department of Transportation.
- 16 (3) Program elements:
- 17 (a) Deliver to each residential collection service customer at least one durable recycling  
18 container. For purposes of this program element, a durable container must be a rigid box or  
19 bucket with a volume of at least 12 gallons made of material that holds up under all weather  
20 conditions for at least five years and that the resident and the collector can easily handle;
- 21 (b) Provide on-route collection at least once each week of source separated recyclable  
22 materials designated by OAR 340-090-0630(4)(b) to residential collection service customers  
23 provided on the same day that solid waste is collected from each customer;
- 24 (c) Provide a recycling education and promotion program that is expanded from the  
25 minimum requirements described in OAR 340-090-0030(8), and supports the management  
26 of solid waste in the following priority order: first preventing the generation of waste, then  
27 reusing materials, then recycling materials, then composting materials, then recovering  
28 energy, and finally safely disposing of solid waste that cannot be prevented, reused,  
29 recycled, composted or used for energy recovery.
- 30 (A) Each local government's expanded program must satisfy the applicable requirements of  
31 ORS 459A.008 and OAR 340-090-0041 and:
- 32 (i) Must inform all solid waste generators of how to prevent waste and how to reuse, recycle  
33 and compost material;
- 34 (ii) Must inform all solid waste generators of the manner and benefits of preventing waste  
35 and how to reuse, recycle, and compost materials;

- 1 (iii) Must promote the use of recycling services;
- 2 (iv) Must determine the levels of contamination of materials set out for collection and take  
3 action to reduce contamination in collected recyclables; and
- 4 (v) Must target educational and promotional materials provided to commercial customers to  
5 meet the needs of various types of businesses and should include reasons to recycle,  
6 including economic benefits, common barriers to recycling and solutions, additional  
7 resources for commercial generators of solid waste, and other information designed to assist  
8 and encourage recycling efforts. These materials must encourage each commercial generator  
9 of solid waste to strive to achieve 55 percent recovery from its solid waste stream by the  
10 year 2025.
- 11 (B) The expanded program must be provided in one of the two following ways:
- 12 (i) A "Specified Action" program, which must include at a minimum the following elements:
- 13 (I) All new residential and commercial collection service customers must each receive a  
14 packet of educational materials that contain information listing the materials collected, the  
15 schedule for collection, proper method of preparing materials for collection and an  
16 explanation of the reasons why customers should source separate materials for recycling;
- 17 (II) Existing residential and commercial collection service customers must be provided  
18 information identified in OAR 340-090-0040(3)(c)(B)(i)(I) at least four times a calendar  
19 year through a written notice or effective alternative to reach various solid waste generators,  
20 or combination of both;
- 21 (III) At least annually information regarding the benefits of recycling and the type and  
22 amount of materials recycled during the past year must be provided directly to the collection  
23 service customer in written form and must include additional information including the  
24 procedure for preparing materials for collection;
- 25 (IV) Targeting of at least one community or media event per year to promote waste  
26 prevention, reuse, recycling and composting, although not every media event needs to  
27 promote all of those activities;
- 28 (V) Utilizing a variety of materials and media formats to disseminate the information in the  
29 expanded program in order to reach the maximum number of collection service customers  
30 and residential and commercial generators of solid waste; and
- 31 (VI) Development and implementation of a contamination reduction education plan that  
32 satisfies the requirements of OAR 340-090-0041.
- 33 (ii) Development and implementation of an "Expanded Education and Promotion Plan." The  
34 Plan must:
- 35 (I) Include actions to effectively reach solid waste generators and all new and existing  
36 collection service customers;

- 1 (II) Include such actions as necessary to fulfill the intent of this subsection;
- 2 (III) Include a timetable for implementation, and the local government must implement that  
3 timetable;
- 4 (IV) Be submitted to DEQ by February 28 of the first year that the Plan is to be in effect or  
5 within 30 days of the beginning of the local government's fiscal year in which the Plan is  
6 first put into effect.
- 7 (d) Establish and implement a recycling collection program through local ordinance,  
8 contract or any other means enforceable by the appropriate city or county for each multi-  
9 family dwelling complex having five or more units. The collection program must meet the  
10 following requirements:
- 11 (A) Collect recyclable materials identified by OAR 340-090-0630(4)(b);
- 12 (B) Provide educational and promotional information directed toward the residents of multi-  
13 family dwelling units periodically as necessary to be effective in reaching new residents and  
14 reminding existing residents of the opportunity to recycle including the types of materials to  
15 be recycled and the method for properly preparing those materials.
- 16 (e) Establish and implement an effective residential yard debris program to collect and  
17 compost residential yard debris. The program must include the following elements:
- 18 (A) Promotion of home composting of yard debris through written material or some other  
19 effective media form that is directed at the residential generator of yard debris; and either
- 20 (B) At least monthly on-route collection of yard debris from residences for production of  
21 compost or other marketable products; or
- 22 (C) A system of residential yard debris collection depots, for producing compost or other  
23 marketable products, located such that there is at least one conveniently located depot, open  
24 to the public at least once a week, for every 25,000 population.
- 25 (f) Taking into account material generation rates, establish and implement regular, on-site  
26 collection of source separated recyclable materials designated by OAR 340-090-0630(4)(b)  
27 from commercial generators, taking into consideration how the generator could achieve 55  
28 percent recovery from its solid waste stream by the year 2025. This program element does  
29 not apply to manufacturing, business or processing activities in residential dwellings or to  
30 the generation of industrial solid waste. At a minimum the commercial recycling program:
- 31 (A) Must be provided to commercial entities that employ 10 or more persons and occupy  
32 1,000 square feet or more in a single location;
- 33 (B) Must include an education and promotion program that:
- 34 (i) Uses materials and messages specifically designed for commercial generators of solid  
35 waste; and



- 1 (ii) Informs all commercial generators of solid waste of the benefits of recycling, the  
2 recycling opportunities available to them and how to recycle; and
- 3 (iii) If the local government is providing the expanded education and promotion program  
4 element, includes any additional requirements needed to meet OAR 340-090-0040(3)(c);  
5 and
- 6 (iv) Includes information on the benefits of waste prevention to commercial generators.
- 7 (C) Must be conducted to effectively promote the commercial recycling program to  
8 commercial generators of solid waste;
- 9 (D) Must encourage each commercial generator of solid waste to strive to achieve 55  
10 percent recovery from its solid waste stream by the year 2025;
- 11 (E) Should provide other elements including but not limited to:
- 12 (i) Provision of waste assessments to businesses;
- 13 (ii) Provision of recycling receptacles to businesses at no or low cost;
- 14 (iii) Waste prevention and recycling recognition programs. Local governments are  
15 encouraged to involve local business organizations in publicly recognizing outstanding  
16 waste prevention and recycling efforts by commercial generators of solid waste. The  
17 recognition may include awards designed to provide additional incentives to increase waste  
18 prevention and recycling efforts.
- 19 (g) Establish depots for recycling collection of all materials identified in OAR 340-090-  
20 0630(4)(a), and where feasible, additional materials, except that used oil need not be  
21 collected at the depot if another location within the local government unit will accept used  
22 oil for recycling. This program must provide at least one (1) recycling depot in addition to  
23 the depot(s), if any, required by OAR 340-090-0030(1). For any city with a population of  
24 50,000 or more, the minimum number of additional depots must be equal to the city's  
25 population, divided by 25,000, and rounded down to the nearest whole number. The  
26 expanded depot program must include promotion or education that maximizes the use of the  
27 expanded depot program. The depots must operate as follows:
- 28 (A) Have regular and convenient hours for residential generators of solid waste; and
- 29 (B) Be open on at least one weekend day each week; and
- 30 (C) Be established in location(s) that are convenient for residential generators of solid waste  
31 to use.
- 32 (h) Establish collection rates for residential solid waste from single-family residences and  
33 single residential units, in complexes of less than five units that encourage waste prevention,  
34 reuse and recycling. The rates must, at a minimum, include the following elements:

- 1 (A) At least one rate for a container that is 21 gallons or less in size and costs less than  
2 larger containers;
- 3 (B) Rates must be based on the average weight, as determined in paragraph (E) of this  
4 subsection, of solid waste disposed per container for various sizes of containers;
- 5 (C) Rates, as calculated on a per pound disposed basis, may not decrease per pound with the  
6 increasing size of the container or the number of containers;
- 7 (D) Rates per container service must be established such that each additional container  
8 beyond the first container for each residential unit must have a fee charged that is at least the  
9 same fee and no less than the first container; and
- 10 (E) Rates, calculated on a per pound disposed basis, the city or county develops through  
11 their own per pound average weights for various container sizes by sampling and calculating  
12 the average weights for a cross section of containers within their residential service area.
- 13 (i) An on-going system to collect food waste and, optionally, other compostable waste, from  
14 commercial and institutional entities that generate large amounts of such wastes, and  
15 compost it at facilities in compliance with DEQ composting facility rules and local  
16 government regulations:
- 17 (A) Before diverting edible (unwanted) foods to be composted, a local government should  
18 consider how to encourage making them available:
- 19 (i) Through food rescue;
- 20 (ii) Or if charity channels are not available, to farmers for animal feed.
- 21 (B) A commercial composting program must include the following elements:
- 22 (i) On-going promotion of the commercial compost program through written material or  
23 other effective formats directed to targeted commercial generators within the local  
24 government unit, such as grocery stores, restaurants, wholesale flower warehouses, hotels,  
25 businesses and institutions with food service;
- 26 (ii) To avoid problems relating to human health and the environment, periodic collection of  
27 food wastes and, optionally, other compostable wastes, is required from commercial  
28 generators on an appropriate schedule.
- 29 (C) Any composting facility to which collected compostable waste is taken must comply  
30 with DEQ composting facility rules;
- 31 (D) On-site commercial composting should be considered if the location is appropriate,  
32 space is available and the entity complies with DEQ composting facility rules and local  
33 government regulations.

1 (j) A commercial recycling program that requires commercial generators of solid waste that  
2 generate large amounts of recyclable materials to source separate recyclable materials.

3 (A) For subsection (3)(j) of this rule, “large amount commercial generator” means a  
4 commercial generator of solid waste that has a service level of four or more cubic yards of  
5 solid waste per week at a single site.

6 (B) A local government must require participation in its commercial recycling program by  
7 all large amount commercial generators except for generators exempted under paragraph  
8 (3)(j)(F) of this rule.

9 (C) The local government’s commercial recycling program must include requirements for  
10 large amount commercial generators to:

11 (i) Source-separate recyclable materials for reuse or recycling;

12 (ii) Self-haul or arrange for collection service of the source separated recyclable materials;

13 (iii) Provide recycling containers for internal areas where recyclable materials may be  
14 collected, stored, or both; and

15 (iv) Correctly label all interior and exterior containers and post signs where recyclable  
16 materials may be collected, stored, or both that identify the materials that the large amount  
17 commercial generator must source-separate for reuse or recycling and that provide recycling  
18 instructions.

19 (D) The local government must provide education and promotion that meets at least the  
20 minimum requirements described in OAR 340-090-0030(8) for all large amount commercial  
21 generators.

22 (E) To ensure compliance with the requirements in this subsection, the local government  
23 must establish a method for identification and monitoring of large amount commercial  
24 generators.

25 (i) If a large amount commercial generator is not in compliance with the requirements of this  
26 subsection, then the local government must, at a minimum, notify that large amount  
27 commercial generator that it is out of compliance.

28 (ii) For a noncomplying large amount commercial generator, the local government may also  
29 consider a penalty or fine structure that incorporates warning notices, civil injunctions,  
30 financial penalties, or criminal prosecutions.

31 (F) The local government may allow for limited exemptions from the requirements of this  
32 subsection for reasons that the local government deems appropriate, such as zoning  
33 requirements, lack of sufficient space to provide additional recycling containers, or non-  
34 generation of recyclable materials.

1 (G) The local government may consider certification requirements for self-haulers of source-  
2 separated recyclable materials. Those certification requirements may include, but are not  
3 limited to, requiring large amount commercial generators to maintain written records  
4 demonstrating that all self-hauling activities have been completed in compliance with the  
5 requirements of this subsection (3)(j).

6 (k) A program for monthly or more frequent on-route collection and composting for food  
7 waste and, optionally, other compostable waste from residential collection service  
8 customers.

9 (A) The local government must provide education or promotion that meets at least the  
10 minimum requirements described in OAR 340-090-0030(8) for all residential collection  
11 service customers.

12 (B) In addition to the requirements of subsection (3)(k)(A) of this rule, the local  
13 government's education or promotion to all residential collection service customers must  
14 include:

15 (i) Types of food waste collected;

16 (ii) The schedule for collection;

17 (iii) Methods of preparing food waste for collection;

18 (iv) Explanations of why separating food waste for recovery is necessary; and

19 (v) Explanations of how to reduce contamination of the food waste recovery stream set out  
20 for collection.

21 (l) A recovery program for construction and demolition debris.

22 (A) As used in subsection (3)(l) of this rule, "construction and demolition debris" means  
23 waste resulting from the construction, renovation, repair, or demolition of buildings or other  
24 structures that contain recyclable material. "Construction and demolition debris" does not  
25 include putrescible wastes, hazardous waste, or asbestos.

26 (B) The recovery program for construction and demolition debris must:

27 (i) Require that construction and demolition debris be source separated at the site of  
28 generation or be sent to a material recovery facility for processing and recovery; and

29 (ii) Include an education or promotion program for developers, contractors, and residential  
30 owners that provides strategies:

31 (I) To reduce waste during preconstruction planning and in building construction, renovation  
32 and demolition phases; and

33 (II) To direct waste to reuse and material recovery facilities.

- 1 (C) Generators subject to this program include any person who:
- 2 (i) Generates and self-hauls a minimum of six cubic yards of construction and demolition  
3 debris at any time; or
- 4 (ii) Generates and arranges for collection service of a minimum of ten cubic yards of  
5 construction and demolition debris at any time.
- 6 (D) The local government must provide education or promotion that meets at least the  
7 minimum requirements described in OAR 340-090-0030(8) for all generators of  
8 construction and demolition debris that are subject to the recovery program for that debris.
- 9 (m) A food waste collection program requiring nonresidential generators that generate large  
10 amounts of food waste to source-separate the food waste for recovery.
- 11 (A) For subsection (3)(m) of this rule:
- 12 (i) “Nonresidential generator” means a commercial generator or other generator but not a  
13 residential or multi-family generator; and
- 14 (ii) “Large amount nonresidential generator” means a nonresidential generator that disposes  
15 of more than fifty tons of food waste annually.
- 16 (B) The local government must require participation in its food waste collection program by  
17 all large amount nonresidential generators except for generators exempted under paragraph  
18 (3)(m)(F) of this rule.
- 19 (C) The local government’s food waste collection program must include requirements for  
20 large amount nonresidential generators to:
- 21 (i) Cover, at a minimum, food waste that is not packaged and for which final disposal by the  
22 large amount nonresidential generator is controlled by the nonresidential generator’s  
23 employees or agents;
- 24 (ii) Source-separate food waste for donation or food waste collection;
- 25 (iii) Self-haul or arrange for collection service of the food waste;
- 26 (iv) Provide containers for internal areas where food waste may be collected, stored, or both;  
27 and
- 28 (v) Correctly label all interior and exterior containers and post signs and instructions where  
29 food waste is collected, stored, or both, that identifies the types of food waste the large  
30 amount nonresidential generator must source-separate for donation or food waste collection.
- 31 (D) The local government must provide education or promotion that meets at least the  
32 minimum requirements described in OAR 340-090-0030(8) for all large amount  
33 nonresidential generators.

1 (E) To ensure compliance with the requirements in this subsection, the local government  
2 must establish a method for identification and monitoring of large amount nonresidential  
3 generators.

4 (i) If a large amount nonresidential generator is not in compliance with the requirements of  
5 this subsection, then the local government must, at a minimum, notify that large amount  
6 nonresidential generator that it is out of compliance.

7 (ii) For a noncomplying large amount nonresidential generator, a local government may also  
8 consider a penalty or fine structure that incorporates warning notices, civil injunctions,  
9 financial penalties, or criminal prosecutions.

10 (F) The local government may allow for limited exemptions from the requirements of this  
11 subsection for reasons that the local government deems appropriate, such as zoning  
12 requirements or lack of sufficient space to provide additional food waste containers.

13 (G) The local government may consider certification requirements for self-haulers of food  
14 waste. Those certification requirements may include, but are not limited to, requiring large  
15 amount nonresidential generators of food waste to maintain written records demonstrating  
16 that all self-hauling activities have been completed in compliance with the requirements of  
17 this subsection (3)(m).

18 (4) In addition to the requirements in sections (1) and (2) of this rule, each city with a  
19 population of 4,000 or more and any county responsible for the area within a metropolitan  
20 service district or the area between the city limits and the urban growth boundary of that city  
21 in any of the following wastesheds must provide the opportunity to recycle rigid plastic  
22 containers if the conditions set forth in section (5) of this rule are met:

23 (a) Clackamas, Multnomah and Washington Counties, in aggregate, as a single wasteshed;

24 (b) Benton wasteshed;

25 (c) Clatsop wasteshed;

26 (d) Columbia wasteshed;

27 (e) Deschutes wasteshed;

28 (f) Douglas wasteshed;

29 (g) Hood River wasteshed;

30 (h) Jackson wasteshed;

31 (i) Josephine wasteshed;

32 (j) Lane wasteshed;

33 (k) Linn wasteshed;

1 (l) Marion wasteshed;

2 (m) Polk wasteshed;

3 (n) Wasco wasteshed; and

4 (o) Yamhill wasteshed.

5 (5) The opportunity to recycle rigid plastic containers is required within a wasteshed when a  
6 stable market price for rigid plastic containers, that equals or exceeds 75 percent of the  
7 necessary and reasonable collection costs for those containers, exists for such wasteshed.

8 **Statutory/Other Authority:** ORS 459.045, 459A.025, 459A.100 - 459A.120 & 468.020

9 **Statutes/Other Implemented:** ORS 459A.005, 459A.007, 459A.008, 459A.010 &  
10 459A.665

11 **History:**

12 DEQ 76-2018, minor correction filed 04/09/2018, effective 04/09/2018

13 DEQ 3-2017, f. & cert. ef. 1-19-17

14 DEQ 8-2005, f. & cert. ef. 7-14-05

15 DEQ 27-1998, f. & cert. ef. 11-13-98

16 DEQ 9-1996, f. & cert. ef. 7-10-96

17 DEQ 10-1994, f. & cert. ef. 5-4-94

18 DEQ 31-1992, f. & cert. ef. 12-18-92 (and corrected 1-5-93)

19 **340-090-0042**

20 **Waste Prevention and Reuse Programs**

21 (1) As required by ORS 459A.007, certain local governments must implement the waste  
22 prevention education and reuse program element listed in section (2) in this rule and choose  
23 two or four additional elements from sections (3) through (8) of this rule, depending on the  
24 local governments' populations and locations. Each city that is within a metropolitan service  
25 district or with a population of greater than 50,000 and each county that is responsible for  
26 the area between city limits and the urban growth boundary of a city with a population of  
27 greater than 50,000 or the area outside of city limits but within a metropolitan service  
28 district urban growth boundary must implement either: the waste prevention and reuse  
29 program element in section (2) and at least four additional elements from sections (3)  
30 through (8) of this rule; or an alternative program that is designed to achieve similar benefits  
31 as this rule and complies with OAR 340-090-0080(7). Each city with a population of greater  
32 than 10,000 but no more than 50,000, that is within a county of greater than 100,000  
33 population, and each county of greater than 100,000 population that is responsible for the  
34 area between city limits and the urban growth boundary of a city with a population of  
35 greater than 10,000 but no more than 50,000 must implement either: the waste prevention  
36 and reuse program element in section (2) and at least two additional elements from sections  
37 (3) through (8) of this rule; or an alternative program that is designed to achieve similar  
38 benefits as this rule and complies with OAR 340-090-0080(7). Waste prevention education  
39 and reuse program elements in this rule that are implemented by a county or metropolitan  
40 service district may be used by a city within the county or metropolitan service district to

1 meet the requirements of this rule, provided that the elements are made available throughout  
2 the entire city, including the area between the city limits and the urban growth boundary of  
3 that city. Waste prevention and reuse program elements implemented by a metropolitan  
4 service district may be used by a county that includes or is within the metropolitan service  
5 district to meet the requirements of this section, provided that the elements are made  
6 available throughout the entire urban growth boundary of the metropolitan service district.

7 (2) Citywide or countywide education and promotion. A citywide or countywide education  
8 and promotion program about the environmental benefits of, and opportunities to reduce the  
9 generation of waste through, waste prevention and reuse.

10 (a) The education and promotion program must include the following components:

11 (A) Information for existing residential and commercial collection service customers that:

12 (i) Is designed to reach solid waste generators and is provided at least four times per  
13 calendar year through: written notice, an effective alternative, or some combination of both;

14 (ii) Describes the benefits of generating less waste in terms of the reduction in a material's  
15 environmental impact as part of its life cycle, including upstream impacts, such as resource  
16 extraction and manufacturing; and

17 (iii) Addresses how to generate less waste, how to reuse materials, and solutions to common  
18 challenges to waste prevention and reuse.

19 (B) An activity targeting at least one community or one media event each year that promotes  
20 waste prevention and reuse, such as a waste prevention booth at a county fair or a  
21 community cleanup event that includes a sale or giveaway component to encourage reuse of  
22 discarded articles. This activity or event must be in addition to any campaigns used to  
23 comply with sections (3) or (4) of this rule. An activity or event may promote waste  
24 prevention activities, reuse activities, or some combination of both.

25 (b) To reach the maximum number of residential and commercial solid waste generators, the  
26 education and promotion program must utilize a variety of materials and media formats to  
27 disseminate information.

28 (c) Each local government must submit to DEQ a program plan during the first year the plan  
29 is in effect. The plan must use either a format that DEQ provides or an alternative written  
30 format chosen by the local government. Thereafter, the local government must submit a  
31 summary of activities in the plan to DEQ at the same time the local government submits its  
32 periodic report under OAR 340-090-0100. The plan must describe how it will implement the  
33 elements in subsections (2)(a) and (3)(b) of this rule, including:

34 (A) A description of the information to be provided, including messages to be conveyed,  
35 program material format and general content, and schedules for distribution;



1 (B) A description of how the information meets the needs of various types of residential  
2 generators, such as multi-family or rural residents, and various types of commercial and  
3 institutional generators;

4 (C) A description of how information will be provided, such as through events, volunteer  
5 activities, community meetings and presentations, or door-to door outreach; and

6 (D) A description of who will provide the information, such as local government staff,  
7 collectors, depot operators, disposal site operators, and non-governmental organizations.

8 (3) Waste prevention campaign targeting residential generators. A waste prevention  
9 campaign targeting residential generators of waste and focused on one or more toxic or  
10 energy intensive materials or consumer purchasing practices. As used in this section,  
11 “consumer purchasing practices” means the act of purchasing a toxic or energy intensive  
12 material, a product containing toxic materials, or a product consisting at least 50 percent by  
13 weight of energy intensive materials. A food rescue program is not a waste prevention  
14 campaign for the purpose of complying with this section. The campaign must meet the  
15 following criteria:

16 (a) For either a campaign that DEQ provides or an alternative campaign that the local  
17 government chooses and DEQ approves, each local government must develop, submit to  
18 DEQ, and implement a campaign plan that:

19 (A) Identifies at least one specific waste generating behavior or practice targeted for change;

20 (B) Describes the campaign’s strategy;

21 (C) Describes the campaign materials’ general content, format, and delivery methods;

22 (D) Provides an implementation schedule; and

23 (E) Describes a performance measurement plan that specifies one or more outcomes that the  
24 local government will use to demonstrate its campaign reached the target audience or  
25 achieved its waste prevention objective.

26 (b) Campaign materials must include multiple components that may be used sequentially or  
27 on a rotational basis to meet the required refreshing schedule in subsection (3)(c) of this  
28 rule. Such components may include materials using:

29 (A) Different visual images to convey core messaging;

30 (B) Variations on core messaging language; or

31 (C) A variety of media, such as print, websites, social media, or radio.

32 (c) The duration of a campaign may not exceed five years, and the local government’s  
33 implementation schedule must include a schedule for refreshing components of the  
34 campaign at least once every two years. To “refresh” components of a campaign means to

1 use new or different components to deliver messages in a different way. A local government  
2 may also request, and DEQ may approve, a campaign duration or implementation schedule  
3 that differs from this subsection's schedule for refreshing components provided that the  
4 local government can demonstrate:

5 (A) That the campaign or one of its components has contributed to the desired behavior  
6 change; and

7 (B) That continuing the campaign or one of its components is likely to result in further  
8 desired changes in behavior or practices.

9 (d) Educational materials used in this campaign must be in addition to educational materials  
10 used to satisfy the requirements of section (2) of this rule.

11 (4) Waste prevention campaign targeting commercial generators. A waste prevention  
12 campaign targeting commercial or institutional generators of waste and focused on one or  
13 more toxic or energy intensive materials or consumer purchasing practices. As used in this  
14 section, "consumer purchasing practices" means the act of purchasing a toxic or energy  
15 intensive material, a product containing toxic materials, or a product consisting at least 50  
16 percent by weight of energy intensive materials. A targeted business assistance program  
17 qualify as a campaign if that program includes components that promote changes in waste  
18 generating behavior or practices consistent with the requirements of this section and targets  
19 businesses with applicable waste generating behaviors or practices. A food rescue program  
20 is not a waste prevention campaign for the purpose of complying with this section. The  
21 campaign must meet the following criteria:

22 (a) For either a campaign DEQ provides or an alternative campaign the local government  
23 chooses and DEQ approves, each local government must develop, submit to DEQ, and  
24 implement a campaign plan that:

25 (A) Identifies at least one specific waste generating behavior or practice targeted for change;

26 (B) Describes the campaign's strategy;

27 (C) Describes the campaign materials' general content, format and delivery methods;

28 (D) Provides an implementation schedule; and

29 (E) Describes a performance measurement plan that specifies one or more outcomes that the  
30 local government will use to demonstrate its campaign reached the target audience or  
31 achieved its waste prevention objective.

32 (b) Campaign materials must include multiple components that may be used sequentially or  
33 on a rotational basis to meet the required refreshing schedule in subsection (5)(c) of this  
34 rule. Such components may include materials using:

35 (A) Different visual images to convey core messaging;

- 1 (B) Variations on core messaging language; or
- 2 (C) A variety of media, such as print, websites, social media, or radio.
- 3 (c) The duration of a campaign may not exceed five years, and the local government's  
4 implementation schedule must include a schedule for refreshing components of the  
5 campaign at least once every two years. To "refresh" components of a campaign means to  
6 use new or different components to deliver messages in a different way. A local government  
7 may also request, and DEQ may approve, a campaign duration or implementation schedule  
8 that differs from this subsection's schedule for refreshing components provided that the  
9 local government can demonstrate:
- 10 (A) That the campaign or one of its components has contributed to the desired behavior  
11 change; and
- 12 (B) That continuing the campaign or one of its components is likely to result in further  
13 desired changes in behavior or practices.
- 14 (d) Educational materials used in this campaign must be in addition to educational materials  
15 used to satisfy the requirements of section (2) of this rule.
- 16 (5) Education program in schools. A waste prevention and reuse education program in  
17 elementary and secondary schools must satisfy the following criteria:
- 18 (a) Each local government must develop, submit to DEQ, and implement a plan to deliver  
19 elementary and secondary school education and promotion programs, that:
- 20 (A) Identifies groups or classes of students;
- 21 (B) Describes how the program will engage the students;
- 22 (C) Identifies at least one specific waste generating behavior or practice targeted for change  
23 and barriers to that change;
- 24 (D) Provides an implementation schedule; and
- 25 (E) Describes a performance measurement plan that specifies one or more outcomes that the  
26 local government will use to demonstrate its education program reached the students or  
27 achieved its waste prevention and reuse objectives.
- 28 (b) The education program must address students in both elementary and secondary schools  
29 and may include activities such as:
- 30 (A) Classroom presentations;
- 31 (B) School assemblies;
- 32 (C) Classroom curricular activities, such as service learning projects;

1 (D) After school programs;

2 (E) Field trips with a substantial focus on reducing waste generation, such as tours of tool  
3 libraries or food rescue facilities; or

4 (F) Student education implemented as part of in-school waste prevention and reuse  
5 programs, such as school cafeteria projects to measure and reduce food waste.

6 (c) If the program is a general waste prevention and reuse education and outreach program  
7 designed primarily to deliver information and increase knowledge about actions that support  
8 waste prevention and reuse, then the program must provide education to at least 5 percent of  
9 all elementary and secondary students attending public school within the area served by the  
10 local government in each calendar year for which this element is used to comply with waste  
11 prevention and reuse program requirements, or 10 percent of all students where a program is  
12 being implemented over two consecutive years. A local government may use total  
13 enrollment numbers reported to the Oregon Department of Education to determine the  
14 number of students its program must reach or may propose, with justification, to DEQ an  
15 alternative total enrollment number. A local government may, at its discretion, provide  
16 education to private school students or to students attending school while in a correctional  
17 facility to meet required targets. A city or county may comply with this element through  
18 compliance by its county or metropolitan service district provided that:

19 (A) The education by the county or metropolitan service district is made available to all  
20 schools within the area served by the local government using this element to comply with  
21 waste prevention and reuse requirements; and

22 (B) The county or metropolitan service district is providing the education to at least this  
23 element's percentage threshold of elementary and secondary students in each calendar year  
24 for which this element is used to comply.

25 (d) A local government may propose a metric, besides the percentage in subsection (5)(c) of  
26 this rule, for approval by DEQ that allows for more in-depth programs designed to engage a  
27 smaller number of students. The proposal must explain how targeting a smaller number of  
28 students supports longer-term engagement in elementary and secondary education on waste  
29 prevention and reuse.

30 (e) Local governments may not use education programs used to demonstrate compliance  
31 with the requirements of OAR 340-090-0042(5) to demonstrate compliance with any other  
32 waste prevention and reuse program element in this rule.

33 (6) Funding or infrastructure support program. A program either for the provision of city,  
34 county, or watershed funding or for the provision of city, county, or watershed infrastructure  
35 support to promote and sustain reuse, repair, leasing or sharing efforts. The program must  
36 meet the following criteria:

37 (a) A local government must identify the specific forms of funding or infrastructure support  
38 the local government will provide to support reuse, repair, leasing or sharing activities and

1 describe how the funding or infrastructure support contributes to sustaining and, where  
2 possible, expanding reuse, repair, leasing or sharing efforts within the local government unit.

3 (b) Support must be provided annually unless a local government provides funding or  
4 monetized infrastructure support in an amount larger than that required under subsection  
5 (6)(c) of this rule and the amount of that funding or monetized support, when amortized over  
6 multiple years, is at least equivalent to the annual support the local government would  
7 otherwise provide.

8 (c) If a city, county, or watershed chooses to use direct funding to comply with the  
9 requirements of this section, annual funding must be no less than \$0.17 per local  
10 government unit resident for jurisdictions with populations up to 100,000 in population and  
11 \$17,000 plus \$0.10 per local government unit resident above 100,000 in population for  
12 jurisdictions with populations above 100,000, adjusted annually for inflation from a base  
13 year of 2016 using the West Region Consumer Price Index for All Urban Consumers for All  
14 Items, as published by the Bureau of Labor Statistics of the United States Department of  
15 Labor.

16 (d) If a city, county, or watershed chooses to provide infrastructure support to comply with  
17 the requirements of this section, that support must result in a reuse, repair, lease or sharing  
18 opportunity that is provided continuously or on at least 1 day per year for every 50,000 in  
19 the local government unit's population or monetized at a value equal to the funding required  
20 in subsection (6)(c) of this rule.

21 (e) Funding may include: grants; payments on behalf of organizations for equipment;  
22 funding to cover the costs of outreach efforts, such as website development, development of  
23 social media venues and media buys; or funding to allow reuse, repair, or sharing  
24 organizations to pay staff or contractors for program development, implementation, or both.  
25 However, funding of outreach efforts does not qualify as satisfying this element if that  
26 outreach is also used to satisfy the technical assistance requirements of section (7) of this  
27 rule.

28 (f) A city or county may comply with this element through compliance by its county or  
29 metropolitan service district provided that the infrastructure supported by the county or  
30 metropolitan service district is accessible and convenient to residents and businesses of the  
31 city or county.

32 (7) Technical assistance program. A program for the provision of city or watershed technical  
33 assistance to promote and sustain the reuse, repair or leasing of materials or other sharing of  
34 efforts to reduce waste. The program must meet the following criteria:

35 (a) A local government must identify the specific forms of technical assistance the local  
36 government will provide to support reuse, repair, leasing or sharing activities and must  
37 describe how the technical assistance contributes to sustaining and, where possible,  
38 expanding reuse, repair, leasing or sharing efforts within the local government unit.

39 (b) A local government may satisfy the requirements of this element through a partnership  
40 with another governmental agency, a local non-governmental organization or private

1 enterprise provided that this partnership is documented in a written agreement, such as a  
2 memorandum of understanding, an intergovernmental agreement, a franchise agreement or  
3 other contract vehicle, and:

4 (A) The agreement specifies the local government's contribution to the partnership. The  
5 local government's contribution must be more than nominal support. Examples of sufficient  
6 contributions include supporting ordinances or waived fees, including license fees,  
7 commitments to support volunteer recruitment, requirements that a partner implements a  
8 program on behalf of a local government, promotion that supports implementation of the  
9 partner organization's project, facilitating community meetings or workshops to support  
10 information exchange or project development, participation of local government staff on  
11 organizational boards, and providing communications channels through local government  
12 websites or other media; and

13 (B) The agreement specifies annual reporting of outcomes, such as increased borrowing at a  
14 tool library, pounds of building materials or household goods salvaged from solid waste  
15 disposal, or number and types of materials exchanged through a commercial or residential  
16 exchange website or distribution center that can be linked to the partnership and demonstrate  
17 year-to-year progress in reuse, repair or otherwise reducing waste.

18 (c) Technical assistance in the form of promotion, outreach or education used to comply  
19 with the requirements of OAR 340-090-0042(7) cannot also be used to demonstrate  
20 compliance with any other waste prevention and reuse program element.

21 (8) Food rescue program support. Support by a local government for a food rescue program.  
22 The local government's support must meet the following criteria:

23 (a) The local government must identify and describe specific support for a food rescue  
24 program within the local government unit.

25 (b) A local government's support must include at least two of the following components:

26 (A) A review of local health ordinances or other local government regulations that may  
27 create regulatory barriers to food rescue, identifying regulatory barriers to food rescue, and  
28 implementing solutions needed to facilitate food rescue. Such solutions could include, but  
29 are not limited to, recommending revisions to regulations or seeking authorization from a  
30 local health agency to take an action necessary to facilitate food rescue. Local ordinance  
31 review would be sufficient to constitute support for one component for two years.

32 (B) Funding, which may include: grants or payments on behalf of organizations for  
33 equipment, vehicles or building space; and stipends or other payments for gleaners and other  
34 food rescue workers. The annual amount of such funding must be no less than \$0.17 per  
35 local government unit resident for jurisdictions with populations up to 100,000 in population  
36 and \$17,000 plus \$0.10 per local government unit resident above 100,000 in population for  
37 jurisdictions with populations above 100,000, adjusted annually for inflation from a base  
38 year of 2016 using the West Region Consumer Price Index for All Urban Consumers for All  
39 Items, as published by the Bureau of Labor Statistics of the United States Department of  
40 Labor.

1 (C) Infrastructure support that may include: providing space for rescued food storage; loan  
2 of vehicles for food transport; and development and implementation of donor matching  
3 programs or farm to food bank programs. Infrastructure support must result in a food rescue  
4 opportunity that is provided continuously or on at least one day per year for every 50,000  
5 residents in the local government unit or monetized at a value equal to the funding required  
6 in paragraph (8)(b)(B) of this rule.

7 (D) Technical assistance that may include: convening meetings to assist in developing a  
8 food rescue program; a local government website page to inform and promote food rescue  
9 opportunities; providing other program education and promotional support; developing  
10 success stories for use in promotional materials; and supporting measurement programs to  
11 help develop programs and demonstrate the efficacy of food rescue.

12 (c) A local government may satisfy the technical assistance requirements of this element  
13 through a partnership with another governmental agency, a local non-governmental  
14 organization or private enterprise provided that this partnership is documented in a written  
15 agreement, such as a memorandum of understanding, an intergovernmental agreement, a  
16 franchise agreement or other contract vehicle, and:

17 (A) The agreement specifies the local government's contribution to the partnership. The  
18 local government's contribution must be more than nominal support. Examples of sufficient  
19 contributions include supporting ordinances or waived fees, including license fees,  
20 commitments to support volunteer recruitment, requirements that a partner implements a  
21 program on behalf of a local government, promotion that supports implementation of the  
22 partner organization's project, facilitating community meetings or workshops to support  
23 information exchange or project development, participation of local government staff on  
24 organizational boards, and providing communications channels through local government  
25 websites or other media; and

26 (B) The agreement specifies annual reporting of outcomes, such as increased food diverted  
27 to food assistance programs, that can be linked to the partnership and demonstrate year-to-  
28 year progress in food rescue.

29 (d) Support must be provided annually unless a local government provides funding or  
30 monetized infrastructure support in an amount larger than that required under subsection  
31 (8)(b) of this rule and the amount of that funding or monetized support, when amortized  
32 over multiple years, is at least equivalent to the annual support that the local government  
33 would otherwise provide.

34 (e) A city or county may comply with this section (8) through compliance by its county or  
35 metropolitan service district provided that the county- or metropolitan service district-  
36 supported food rescue program either collects from sources of food in the city or county or  
37 redistributes food to residents of the city or county.

38 **Statutory/Other Authority:** 459.045, 459A.025 & 468.020.

39 **Statutes/Other Implemented:** 459A.007, 459A.010 & 459A.050

1 **History:**  
2 DEQ 3-2017, f. & cert. ef. 1-19-17

3 **340-090-0080**

4 **Alternative Methods for Providing the Opportunity to Recycle**

5 This rule describes the necessary procedures and requirements that a city, county,  
6 metropolitan service district, or disposal site permittee on behalf of an out-of-state person  
7 must follow in order to request approval of an alternative program for meeting the  
8 requirements of OAR 340-090-0030, 340-090-0040, and 340-090-0042.

9 (1) The city, county or metropolitan service district responsible for solid waste management  
10 may apply for and request approval by DEQ of an alternative program for providing the  
11 opportunity to recycle. Each request must be made in writing to DEQ on a form DEQ  
12 provides. The request for an alternative program must be complete, signed by the  
13 appropriate authority for the city, county, metropolitan service district or disposal site  
14 permittee for an out-of-state request and address all of the requirements in section (3) of this  
15 rule and sections (5) and (6) of this rule if applicable.

16 (2) DEQ will review applications as they are received. DEQ will approve, approve with  
17 conditions, or reject each proposed alternative program based on consideration of the criteria  
18 described in section (3) of this rule.

19 (3) Each application for approval of an alternative program for providing the opportunity to  
20 recycle must include detailed written information and data on the following:

21 (a) A description of the alternative program being proposed and how it is different from the  
22 standard method that would be required to be implemented under the opportunity to recycle  
23 requirements;

24 (b) The conditions and factors that make the alternative program necessary;

25 (c) How the alternative program is convenient to the commercial and residential generators  
26 of solid waste using or receiving the service;

27 (d) How the alternative program is as effective in recovering recyclable materials from solid  
28 waste as the requirements in OAR 340-090-0020, 340-090-0030, 340-090-0040, and 340-  
29 090-0050 for providing the opportunity to recycle.

30 (e) How the alternative program would achieve at least the lesser of:

31 (A) The local government unit's wasteshed recovery rate goal specified in OAR 340-090-  
32 0050; or

33 (B) Recovery levels comparable to similar communities. For the purposes of this rule,  
34 "similar community" means another local government unit that is similar, for the purpose of  
35 DEQ's evaluation of the local government's alternative program, based on:



- 1 (i) Population or population density;
- 2 (ii) Relevant demographics;
- 3 (iii) Distance to a market for material collected for recycling;
- 4 (iv) Costs of collection and disposal; and
- 5 (v) Other criteria DEQ approves.

6 (4) Anytime a city, county, metropolitan service district, or disposal site permittee on behalf  
7 of an out-of-state person desires to make changes to the approved alternative program, they  
8 must submit an amended application for DEQ's approval following the same requirements  
9 in sections (3), (5) and (6) of this rule.

10 (5) In addition to any other standards or conditions, an alternative program for providing the  
11 opportunity to recycle yard debris in the Metro watershed must meet the following  
12 minimum standards:

13 (a) The alternative program is available to substantially all yard debris generators in the  
14 local jurisdiction;

15 (b) The alternative program can be demonstrated to result in the recycling of yard debris  
16 from the solid waste stream;

17 (c) There is a promotion campaign that is designed to inform all potential users about the  
18 availability and use of the method;

19 (d) The city, county or metropolitan service district must individually or jointly, through  
20 intergovernmental agreement, choose from the following yard debris recycling program  
21 options as an alternative program:

22 (A) Provide monthly or more often on-route collection of yard debris during the months of  
23 April through October with drop-off depots for non-collection service customers available at  
24 least monthly;

25 (B) Provide biweekly or more often yard debris collection depots within one mile of yard  
26 debris generators, or such that there is at least one conveniently located depot for every  
27 25,000 population; or

28 (C) Provide monthly or more often yard debris collection, supplemented by a weekly or  
29 more often yard debris depot during the months of April through October, both within one  
30 mile of the yard debris generators, or such that there is at least one conveniently located  
31 depot for every 25,000 population.

32 (e) If the alternative program is proposed by a metropolitan service district the alternative  
33 program request must include written commitments from the local governments covered by

1 the program to implement the program or a demonstration of the metropolitan service  
2 district's authority to implement the program.

3 (6) In addition to the requirements in section (3) of this rule, when a disposal site permittee  
4 is requesting approval of an alternative program for an out-of-state person the following  
5 criteria must be met:

6 (a) For the purposes of satisfying the requirement in subsection (3)(b) of this rule for a local  
7 government unit the alternative program must designate a watershed having a common solid  
8 waste disposal system or an appropriate area within which to carry out a common recycling  
9 program and select and provide justification for an appropriate recovery rate based on  
10 similar watershed characteristics in Oregon including population density, and distance to  
11 recycling markets;

12 (b) For persons other than local government units the request for alternative program  
13 approval must provide information explaining how the alternative program provides the  
14 opportunity for the person to reduce the amount of waste that would be disposed and a  
15 description of how the alternative program is implemented.

16 (7) Instead of a local government implementing a waste prevention and reuse program under  
17 OAR 340-090-0042, a local government may apply for DEQ's approval of an alternative  
18 waste prevention and reuse program. To apply, a local government must follow these  
19 procedures:

20 (a) Each application for an alternative waste prevention and reuse must be made in writing  
21 on a form that DEQ provides. The application must be complete, signed by the local  
22 government, and address all of the requirements in section (3) of this rule.

23 (b) DEQ will review applications as they are received. For each application, using the  
24 information in subsection (c) of this rule, DEQ must, for the proposed alternative waste  
25 prevention and reuse program:

26 (A) Approve the proposed program;

27 (B) Approve the proposed program with conditions; or

28 (C) Reject the proposed program.

29 (c) Each application must include the following detailed information:

30 (A) A description of the proposed alternative waste prevention and reuse program;

31 (B) Explanations of how the proposed alternative waste prevention and reuse program  
32 would be different than and designed to achieve similar benefits as the waste prevention and  
33 reuse program that would otherwise be required under rule;

34 (C) A written plan describing how the proposed alternative waste prevention and reuse  
35 program would provide citywide or countywide education and promotion about the

1 environmental benefits of, and opportunities to reduce the generation of waste through,  
2 waste prevention and reuse in the local government unit;

3 (D) An explanation of the conditions and factors that make the proposed alternative waste  
4 prevention and reuse program preferable; and

5 (E) A description of waste generating behaviors targeted for change for residential and  
6 commercial generators of solid waste in the local government unit and how that change  
7 would be measured.

8 **Statutory/Other Authority:** ORS 459A.025, 459.045 & 468.020

9 **Statutes/Other Implemented:** ORS 459A.005, 459A.010, 459A.025 & 459A.055

10 **History:**

11 DEQ 3-2017, f. & cert. ef. 1-19-17

12 DEQ 31-1992, f. & cert. ef. 12-18-92, Renumbered from 340-060-0035 & 340-060-0125

13 DEQ 27-1988, f. & cert. ef. 9-16-88

14 DEQ 26-1984, f. & cert. ef. 12-26-84

15 **340-090-0090**

16 **Collection of Recyclable Materials**

17 (1) DEQ may not require any city, county, or metropolitan service district, or agent thereof,  
18 to collect or receive source separated recyclable material which has not been correctly  
19 prepared to reasonable specifications which relate to marketing, transportation, storage, or  
20 regulatory agency requirements. The specifications for material preparation must have been  
21 publicized by the appropriate city, county or metropolitan service district as part of the  
22 education and promotion program requirements in OAR 340-090-0020, 340-090-0030, and  
23 340-090-0040.

24 (2) In addition to the provisions set forth in ORS 459A.080, no person shall dispose of  
25 source separated recyclable material which has been collected or received from the  
26 generator by any method other than reuse or recycling except as follows:

27 (a) Used oil and wood waste may be collected and burned for energy recovery.

28 (b) For covered products pursuant to ORS 459A.863(6), a method other than reuse or  
29 recycling may be used if proposed by a producer responsibility organization in a program  
30 plan, and that program plan is approved by DEQ. The proposal must include an assessment  
31 of environmental impacts and demonstration of consistency with the policy objectives  
32 contained in ORS 459.015(2)(a).

33 (c) For any recyclable materials not included in subsections (a) or (b), a method other than  
34 reuse or recycling may be used if an assessment of the environmental impacts of the method  
35 demonstrates to DEQ's satisfaction that the method provides better environmental outcomes  
36 and is consistent with the policy objectives contained in ORS 459.015(2)(a).

37 (3) Commercial and residential recyclable materials that are source separated for collection  
38 on-route or on-site but that are not correctly prepared according to reasonable specifications

1 as set forth by the city, county or metropolitan service district under section (1) of this rule  
2 may not be required to be collected and may be left with the generator of the source  
3 separated material or may be collected and prepared for recycling by the collector, but may  
4 not be disposed of by the collector. The generator of the material must be provided with  
5 written information that explains correct material preparation for the purposes of educating  
6 the generator.

7 (4) Unauthorized materials that are deposited by the generator at a recycling depot are  
8 exempt from the prohibition in sections (1), (2), and (3) of this rule and must be managed in  
9 the appropriate manner otherwise required by law.

10 (5) Collected recyclable material later found to be contaminated with hazardous substances  
11 are exempt from the prohibition in sections (1), (2), and (3) of this rule and must be  
12 managed in an appropriate manner otherwise required by law.

13 **Statutory/Other Authority:** ORS 459A.025, 459.045, 459A.005 - 459A.085 & 468.020

14 **Statutes/Other Implemented:** ORS 459A.080

15 **History:**

16 DEQ 3-2017, f. & cert. ef. 1-19-17

17 DEQ 27-1998, f. & cert. ef. 11-13-98

18 DEQ 31-1992, f. & cert. ef. 12-18-92, Renumbered from 340-060-0075 & 340-060-0080

19 DEQ 9-1991, f. & cert. ef. 6-20-91

20 DEQ 1-1989, f. & cert. ef. 1-27-89

21 DEQ 27-1988, f. & cert. ef. 9-16-88

22 DEQ 26-1984, f. & cert. ef. 12-26-84

23 **340-090-0110**

24 **Minimum Content Reporting Requirements**

25 The following information must be reported to DEQ by February 28 of each year for the  
26 previous calendar year by the applicable person on a form DEQ provides:

27 (1) Each consumer of newsprint in Oregon must report the following information:

28 (a) Amount of newsprint used in a calendar year in short tons or metric tons;

29 (b) Amount of recycled-content newsprint, comprised of post-consumer waste paper, used in  
30 a calendar year in short tons or metric tons;

31 (c) Aggregate recycled content of the newsprint used in a calendar year expressed as a  
32 percent of the total newsprint used in a calendar year in short tons;

33 (d) If a consumer cannot obtain the required amount of recycled content newsprint for the  
34 reasons listed in ORS 459A.505, the report must include an appropriate explanation;

35 (e) For purposes of this section only "post-consumer waste" means a material that would  
36 normally be disposed of as a solid waste, having completed its life cycle as a consumer or  
37 manufacturing item.

- 1 (2) Publishers of directories distributed in Oregon must provide the following information  
2 on a form DEQ provides. For purposes of this rule, directories means telephone directories  
3 that weigh one pound or more for a local jurisdiction:
- 4 (a) Total weight in tons of directories distributed in Oregon;
  - 5 (b) Percent by weight of recycled content in the total directories distributed in Oregon;
  - 6 (c) Percent of total weight that consists of post-consumer waste;
  - 7 (d) If a publisher cannot meet the requirements in ORS 459A.520, the publisher must  
8 provide an explanation;
  - 9 (e) Description of the locations and cooperative programs implemented with local  
10 government for the collection and recycling of old directories when new ones are  
11 distributed, including the total weight of old directories collected for recycling in each local  
12 government jurisdiction.
- 13 (3) Each manufacturer of glass food, drink and beverage containers made in Oregon, or  
14 made outside Oregon and sold to packagers located in Oregon, must report the following  
15 information:
- 16 (a) Total tons of new glass food, drink and beverage containers made in Oregon, or made  
17 outside Oregon and sold to packagers located in Oregon, in a calendar year;
  - 18 (b) The total tons of post-consumer recycled glass used in manufacturing the containers  
19 made in Oregon, or made outside Oregon and sold to packagers located in Oregon, in a  
20 calendar year;
  - 21 (c) Post-consumer recycled glass generated in Oregon and used in "secondary end uses"  
22 must be credited towards the 50 percent minimum percentage requirement. As used in this  
23 section, "post-consumer recycled glass" does not include window glass and other glass not  
24 related to glass container manufacturing. This "credit" must be determined annually as  
25 follows:
    - 26 (A) DEQ must determine the tonnage of post-consumer recycled glass generated in Oregon  
27 and used in "secondary end uses" based on reports received under OAR 340-090-0100;
    - 28 (B) DEQ must then determine the percentage of post-consumer glass generated in Oregon  
29 that was used for secondary end uses that year. DEQ must use a composition study of solid  
30 waste disposed of in Oregon as the basis for estimating the amount of solid waste which is  
31 post-consumer recycled glass;
    - 32 (C) The 50 percent minimum glass recycled content requirement each glass manufacturer  
33 must meet must be reduced by the number of percentage points determined in paragraph  
34 (3)(c)(B) of this rule for the subject year.

1 (d) A glass manufacturer must identify to DEQ all secondary end users of post-consumer  
2 recycled glass generated in Oregon of which it is aware. "Secondary end uses" must include:

3 (A) Use on road surfaces as "glasphalt;"

4 (B) Fiberglass;

5 (C) Abrasives;

6 (D) Glass foam;

7 (E) Glass beads for reflective paint;

8 (F) Construction uses, meeting engineering specifications;

9 (G) Road-base aggregate, meeting engineering specifications;

10 (H) Other uses as approved by DEQ.

11 (e) Upon request from a glass container manufacturer, DEQ may not enforce the  
12 requirement that a minimum percentage of recycled glass be used in the manufacturing of  
13 glass containers if DEQ determines that a glass container manufacturer cannot meet the  
14 minimum percentage requirements because of a lack of available glass cullet from Oregon  
15 recycling collection programs, including producer responsibility organizations, required by  
16 OAR 340-090-0630 to collect container glass, and that meets reasonable specifications the  
17 manufacturer establishes. However, lack of availability of appropriate cullet to fully comply  
18 with the glass recycled content requirement may not exempt a glass container manufacturer  
19 from the requirement to achieve as high a minimum recycled content as possible using  
20 available appropriate cullet. A request for non-enforcement from a glass container  
21 manufacturer must include sufficient detail for DEQ to be able to reasonably make a  
22 determination as to the availability of appropriate cullet, and must:

23 (A) Be made to DEQ in writing by February 28 of a year to apply to use of cullet in the  
24 previous calendar year;

25 (B) Include a copy of the manufacturer's specifications and an explanation of how the  
26 manufacturer determined that sufficient glass cullet meeting the specifications was not  
27 available. If a manufacturer's specifications are more restrictive than accepted national  
28 specifications, the manufacturer must demonstrate to DEQ why such restrictions are  
29 necessary;

30 (C) Include the tonnage of the shortfall of available cullet.

31 **Statutory/Other Authority:** ORS 459A.025, 459.045 & 468.020

32 **Statutes/Other Implemented:** ORS 459A.515, 459A.520 & 459A.550

33 **History:**

34 DEQ 3-2017, f. & cert. ef. 1-19-17

1 DEQ 27-1998, f. & cert. ef. 11-13-98  
2 DEQ 31-1992, f. & cert. ef. 12-18-92 (and corrected 1-5-93)

3 **340-090-0140**

4 **Recyclable Material Economic Test**

5 This rule describes the factors that DEQ must consider in determining if a material can be  
6 collected and sold for recycling at a net cost equal to or less than the cost of collection and  
7 disposal of the same material.

8 (1) DEQ must calculate the cost of collection and sale of a recyclable material by  
9 considering the collector's costs from the time the material is source separated and leaves the  
10 use of the generator until it is first sold or transferred to the person who recycles it. DEQ  
11 must consider all costs and savings associated with collection of a recyclable material in the  
12 calculation.

13 (2) DEQ must consider any measurable savings to the collector resulting from making a  
14 material available for recycling as opposed to disposal the same as income from sale.

15 (3) DEQ must calculate the cost of collection and disposal of material as solid waste by  
16 using the total costs of collection and disposal. Costs must include fees charged, taxes levies  
17 or subsidy to collect and to dispose of solid waste. Costs must also include, but are not  
18 limited, to the costs to comply with applicable statutes, rules permit conditions and  
19 insurance requirements.

20 (4) DEQ may use the amount and value of any source separated material that is collected or  
21 received as part of a recycling requirement of a permit or a city or county franchise  
22 determining whether remaining material meets the definition of recyclable material.

23 **Statutory/Other Authority:** ORS 459A.025, 459.045 & 468.020

24 **Statutes/Other Implemented:** ORS 459A.010

25 **History:**

26 DEQ 3-2017, f. & cert. ef. 1-19-17

27 DEQ 27-1998, f. & cert. ef. 11-13-98

28 DEQ 31-1992, f. & cert. ef. 12-18-92, Renumbered from 340-060-0055

29 DEQ 26-1984, f. & cert. ef. 12-26-84

30 **340-090-0190**

31 **Yard Debris Recycling Charges**

32 (1) The EQC's purpose in adopting this rule governing when a fee may be charged for yard  
33 debris recycling services is to:

34 (a) Ensure that a financial disincentive for recycling is not created for any waste generator;

35 (b) Increase recovery of yard debris and stimulate participation in yard debris recycling  
36 programs;

- 1 (c) Acknowledge the rate considerations due to the extreme variability of volumes  
2 generated;
- 3 (d) Ensure that service provided to multi-family generators residing in dwellings of four or  
4 fewer units is equivalent to service provided to single family residences.
- 5 (2) The purpose as stated in section (1) of this rule is to apply to those recycling programs  
6 required under ORS 459A.005, 459A.010 and 459.250.
- 7 (3) As used in this rule, "residential generator" means any generator of recyclable material  
8 located in single or multi-family dwellings up to and including four units.
- 9 (4) As used in this rule, a "unit of yard debris" is the equivalent of a 32-gallon can, a similar  
10 sized bag, or the standard unit of yard debris service provided, whichever is greater.
- 11 (5) Residential generators of yard debris participating in a regularly scheduled yard debris  
12 collection service in the Metro wasteshed, may be charged a fee for yard debris recycling  
13 service. The cost of collection of at least the equivalent of one unit of yard debris per month  
14 must be incorporated into the base fee charged for solid waste and recycling collection and  
15 disposal. An additional fee may be charged for yard debris service which exceeds the  
16 equivalent of collection of one unit of yard debris per month. Where multi-family complexes  
17 are treated as a single customer, the local government providing the yard debris service must  
18 assure that yard debris service is provided at a level equivalent to service provided single-  
19 family dwellings. Local governments must make this determination and any related  
20 adjustment in service, no later than their next rate review process. In addition to the base fee  
21 charged for solid waste and recycling collection and disposal, which must include the first  
22 unit of yard debris, local governments may charge a fee for:
- 23 (a) Collection of any volumes of yard debris over and above the first unit which is included  
24 in the base fee, where the generator is a solid waste customer;
- 25 (b) Collection of any volumes of yard debris where the generator is not a solid waste  
26 customer;
- 27 (c) Yard debris collected through a depot program or other alternative method including on-  
28 call service.
- 29 (6) The total additional yard debris recycling fee charged to any generator of yard debris for  
30 collection of yard debris must be less than the fee that would have been charged for  
31 collection of that same volume of yard debris as mixed solid waste.
- 32 (7) Yard debris recycling fees in addition to the base fee charged for solid waste collection  
33 and disposal may be charged for the collection of yard debris on-route or at a depot outside  
34 the Metro wasteshed.
- 35 (8) Each city, county or metropolitan service district in the Metro wasteshed must  
36 individually, or jointly through intergovernmental agreement, implement a yard debris  
37 program that at a minimum meets the requirements of OAR 340-090-0030 when the option



1 under OAR 340-090-0040(3)(e) is not chosen or request approval of an alternative program  
2 for providing the opportunity to recycle under OAR 340-090-0080.

3 **Statutory/Other Authority:** ORS 459A.025, 459.045, 459A.005 - 459A.085 & 468.020

4 **Statutes/Other Implemented:** ORS 459.015, 459.250, 459A.005 & 459A.010

5 **History:**

6 DEQ 3-2017, f. & cert. ef. 1-19-17

7 DEQ 27-1998, f. & cert. ef. 11-13-98

8 DEQ 9-1993, f. & cert. ef. 6-16-93

9 DEQ 31-1992, f. & cert. ef. 12-18-92, Renumbered from 340-060-0130

10 DEQ 9-1991, f. & cert. ef. 6-20-91

11 **340-090-0380**

12 **Recycling Rate Calculation for Rigid Plastic Containers**

13 (1) The recycling rate for rigid plastic containers must be calculated as one of the following:

14 (a) Aggregate or specified resin type recycling rate for compliance purposes;

15 (b) Calendar year aggregate recycling rate;

16 (c) Specified-type rate; or

17 (d) Product-associated rate.

18 (2) Recycling rate for compliance purposes;

19 (a) Aggregate recycling rate for compliance purposes;

20 (A) DEQ may determine a recycling rate for rigid plastic containers, in the aggregate, for  
21 compliance purposes by December 31 of any year for which DEQ deems it necessary to  
22 determine such a rate. The aggregate recycling rate for compliance purposes must apply to  
23 the following calendar year and to any subsequent calendar year until DEQ again calculates  
24 an aggregate rigid plastic container recycling rate for compliance purposes;

25 (B) DEQ must base the aggregate recycling rate for compliance purposes in part on the most  
26 recent calendar year recycling rate and in part on other information which reflects or  
27 indicates the level of rigid plastic container recycling. When determining the recycling rate  
28 for compliance purposes for years prior to the calculation of the calendar year recycling rate,  
29 DEQ will use the best available recycling rate information in lieu of a calendar year  
30 recycling rate.

31 (b) Specified resin type recycling rate for compliance purposes:

32 (A) If the aggregate recycling rate in paragraph (2)(a)(A) of this rule is determined to be less  
33 than 25 percent, DEQ must determine a specified resin type recycling rate for compliance  
34 purposes for rigid plastic containers made from each of the following resin types:  
35 polyethylene terephthalate, high density polyethylene, polyvinyl chloride, low density

1 polyethylene, polypropylene, polystyrene, and other. The specified resin type recycling rate  
2 for compliance purposes must apply to the calendar year(s) for which the aggregate  
3 recycling rate in paragraph (2)(a)(A) of this rule was determined;

4 (B) DEQ must base the specified resin type recycling rate for compliance purposes in part  
5 on the most recent calendar year recycling rate and in part on other information which  
6 reflects or indicates the level of rigid plastic container recycling. When determining the  
7 recycling rate for compliance purposes for years prior to the calculation of the calendar year  
8 recycling rate, DEQ will use the best available recycling rate information in lieu of a  
9 calendar year recycling rate.

10 (3) Calendar year aggregate recycling rate:

11 (a) DEQ must calculate the calendar year aggregate recycling rate for rigid plastic containers  
12 and must include all rigid plastic containers including those exempted by OAR 340-090-  
13 0340(2), (4), (5), (6) or (7) from meeting compliance standards;

14 (b) DEQ must determine the calendar year recycling rate for rigid plastic containers in the  
15 aggregate as a percentage by dividing the aggregate numerator by the aggregate  
16 denominator. DEQ must collect or adjust, or both, the numbers in both the numerator and  
17 denominator of this calculation to represent the same calendar year;

18 (c) The elements of the formula to calculate the calendar year aggregate recycling rate for  
19 post-consumer rigid plastic containers in Oregon are:

20 (A) The aggregate numerator, expressed in tons:

21 (i) DEQ must calculate the numerator be calculated as the total weight of post-consumer  
22 rigid plastic containers recycled in Oregon;

23 (ii) In addition to DEQ's census of material recovery rates, DEQ may use as the basis for  
24 determining the total weight of post-consumer rigid plastic containers recycled in Oregon an  
25 annual recycling census of all parties directly involved in brokering, processing, or recycling  
26 post-consumer rigid plastic containers from Oregon. DEQ may provide monthly forms for  
27 record keeping purposes only. Census respondents will be asked to calculate and submit:

28 (I) The total amount of post-consumer rigid plastic received from Oregon sources which is  
29 rigid plastic containers as defined in OAR 340-090-0330;

30 (II) The percentage of (I) that is lost due to removal of contaminated, non-plastic, and non-  
31 recyclable material; and

32 (III) Any other information DEQ may require to accurately determine the recycling  
33 tonnages.

34 (iii) DEQ must design and implement procedures to conduct the census relating to:

35 (I) Developing and maintaining a comprehensive list of handlers and reclaimers;

- 1 (II) Obtaining data from handlers and reclaimers, including the use of monthly and annual  
2 record keeping and reporting forms;
- 3 (III) Reconciling variances in reported data;
- 4 (IV) Maintaining quality control in data collection and analysis; and
- 5 (V) Adjusting data to produce estimates of the amount of plastic from post-consumer rigid  
6 plastic containers by controlling for contamination, including moisture, organic matter and  
7 other non-plastic materials.
- 8 (iv) DEQ must publish a report on the findings of the census, methodologies used and  
9 information regarding potential errors.
- 10 (B) The aggregate denominator, expressed in tons:
- 11 (i) DEQ must calculate the denominator as the sum of the total weight of post-consumer  
12 rigid plastic containers recycled in Oregon (the numerator) plus the total weight of post-  
13 consumer rigid plastic containers disposed of in Oregon. DEQ must calculate the total  
14 weight of post-consumer rigid plastic containers disposed of in Oregon by multiplying the  
15 estimated percent of municipal solid waste which is post-consumer rigid plastic containers  
16 times total tons of municipal solid waste disposed of in Oregon;
- 17 (ii) The total tons of municipal solid waste disposed of in Oregon is derived from  
18 information collected under the provisions of ORS 459A.010 (3)(d)) and 459A.050 (3) and  
19 (4);
- 20 (iii) DEQ must use a composition study of solid waste disposed of in Oregon as the basis for  
21 estimating the percent of disposed solid waste which is post-consumer rigid plastic  
22 containers. Adjustments to a previous composition study may be used as a substitute for a  
23 new composition study.
- 24 (d) DEQ will determine the calendar year aggregate rigid plastic container recycling rate,  
25 when DEQ determines it to be necessary, on a calendar year basis. When DEQ determines a  
26 calendar year aggregate rate, DEQ will publish it in a report that includes a discussion of  
27 potential errors associated with calculation of the total tons of municipal solid waste  
28 disposed of in Oregon, information on the recycling and disposal data collection and  
29 analysis methodologies and margin of error for the percent composition of rigid plastic  
30 containers.
- 31 (4) Specified-type recycling rate. DEQ must determine the recycling rate for a specified type  
32 of rigid plastic container as a percentage by dividing the specified type numerator by the  
33 specified type denominator. DEQ must collect or adjust, or both, the numbers in both the  
34 numerator and denominator of this calculation to represent the same calendar year:
- 35 (a) The elements of the formula to calculate the specified type recycling rate for rigid plastic  
36 containers in Oregon are:

1 (A) DEQ must calculate the specified type of post-consumer rigid plastic container  
2 numerator as the total of the specific type of post-consumer rigid plastic containers recycled  
3 in Oregon, expressed in tons;

4 (B) The specified type of post-consumer rigid plastic container denominator, expressed in  
5 tons:

6 (i) DEQ must calculate the denominator by one of the following methods:

7 (I) As the sum of the weight of the specified type of post-consumer rigid plastic containers  
8 recycled in Oregon plus the total weight of the specified type of rigid plastic containers  
9 disposed of in Oregon; or

10 (II) The total weight of the specified type of post-consumer rigid plastic containers sold in  
11 Oregon.

12 (ii) If DEQ uses the weight of the specified type of post-consumer rigid plastic containers  
13 disposed of to calculate the denominator, DEQ must use a composition study of solid waste  
14 disposed of in Oregon as the basis for determining the weight disposed of.

15 (b) Any person calculating the recycling rate of a specified type of post-consumer rigid  
16 plastic container may rely upon disposal or recycling data DEQ generates. Persons using  
17 other data to calculate a recycling rate must be able to document that such data were  
18 generated by a methodology acceptable to DEQ and are verifiable;

19 (c) Adjustment to data collected by the recycling census and composition study identified in  
20 paragraphs (3)(c)(A)(ii) and (3)(c)(B)(ii) and (iii) of this rule respectively must be made  
21 only by use of a methodology DEQ accepts;

22 (d) DEQ may use data collected on a national basis to determine the post-consumer rigid  
23 plastic container recycling rate in Oregon if it can be shown how these data are either typical  
24 of or can be adjusted to accurately represent conditions in Oregon.

25 (5) Product-associated recycling rate. DEQ must calculate the recycling rate for a product-  
26 associated rigid plastic container as a percentage by dividing the product-associated  
27 numerator by the product-associated denominator. DEQ must collect or adjust, or both, the  
28 numbers in both the numerator and denominator of this calculation to represent the same  
29 calendar year. The elements of the formula to calculate the product-associated recycling rate  
30 for rigid plastic containers in Oregon are:

31 (a) DEQ must calculate the numerator as the total weight of product-associated post-  
32 consumer rigid plastic containers recycled in Oregon, expressed in tons;

33 (b) The product-associated post-consumer rigid plastic container denominator, expressed in  
34 tons. The denominator must be the total weight of the product-associated rigid plastic  
35 containers sold in Oregon.

1 (6) A product manufacturer or container manufacturer must rely on DEQ's calculation of the  
2 aggregate recycling rate for compliance purposes for post-consumer rigid plastic containers  
3 to comply with OAR 340-090-0350(1)(b)(A). In cases where DEQ calculates the recycling  
4 rate for specified types of or product-associated post-consumer rigid plastic containers, a  
5 product manufacturer or container manufacturer may rely on DEQ's rate calculation when  
6 claiming that a container or containers comply with OAR 340-090-0350(1)(b)(B) or  
7 (1)(b)(C).

8 (7) In cases where a manufacturer calculates the recycling rate for specified types of or  
9 product-associated post-consumer rigid plastic containers, a product manufacturer may rely  
10 upon disposal or recycling data DEQ generates, where available. Manufacturers using other  
11 data to calculate a recycling rate must be able to document that such data were generated by  
12 a methodology DEQ accepts and are verifiable.

13 (8) Calculation of a recycling rate must include only those outputs from processing rigid  
14 plastic containers which are recycled into new products. When a processing technology  
15 results in a combination of outputs, some of which are recycled into new products and others  
16 of which are fuel products, or energy recovery, the recycling rate may not include any  
17 portion of the output which is a fuel product, is used to produce fuel products, or is  
18 otherwise used for energy recovery.

19 **Statutory/Other Authority:** ORS 459A.025

20 **Statutes/Other Implemented:** ORS 459A.650 - 459A.657

21 **History:**

22 DEQ 3-2017, f. & cert. ef. 1-19-17

23 DEQ 27-1998, f. & cert. ef. 11-13-98

24 DEQ 9-1996, f. & cert. ef. 7-10-96

25 DEQ 26-1994, f. & cert. ef. 11-2-94

26 **340-090-0410**

27 **Responsibilities of a Container Manufacturer**

28 (1)(a) A container manufacturer must be able to document that a rigid plastic container or  
29 containers comply with the requirements of OAR 340-090-0350(1)(a), (1)(b)(A), or  
30 (1)(b)(B);

31 (b) For any calendar year for which DEQ determines that the aggregate recycling rate for  
32 compliance purposes is at least 25 percent, a container manufacturer is not required to keep  
33 the records otherwise required by this rule.

34 (2) A container manufacturer's documentation that a rigid plastic container or containers  
35 comply with the provisions of OAR 340-090-0350(1)(a), (1)(b)(A) or (1)(b)(B) must  
36 include, at a minimum, the following information:

37 (a) Recycled content. For each container that complies with OAR 340-090-0350(1)(a):

38 (A) A description of the container including its resin type;

- 1 (B) Documentation of the recycled content of the type of container including:
- 2 (i) The total weight of plastic used to manufacture that type of rigid plastic container during  
3 the time period when the container was made; and
- 4 (ii) The weight of recycled material used to manufacture that type of rigid plastic container  
5 during the same time period, within a one-year period, as determined by the container  
6 manufacturer.
- 7 (b) Aggregate recycling rate. The aggregate recycling rate for compliance purposes DEQ  
8 establishes serves as the only acceptable documentation that a container manufacturer's  
9 containers comply with OAR 340-090-0350(1)(b)(A);
- 10 (c) Specified-type recycling rate. For containers that comply with the specified-type  
11 recycling rate requirement, OAR 340-090-0350(1)(b)(B):
- 12 (A) A description of the container;
- 13 (B) Identification of the specified type;
- 14 (C) Documentation of the recycling rate for the type of container pursuant to OAR 340-090-  
15 0380(4); and
- 16 (D) Where DEQ has calculated a recycling rate for a specified type of container, the  
17 container manufacturer may rely upon DEQ's rate to show that the container complies with  
18 the rate requirements.
- 19 (3) Container manufacturer's Certificate of Compliance:
- 20 (a) A container manufacturer must make a Certificate of Compliance available to:
- 21 (A) Any product manufacturer who uses containers from that container manufacturer and  
22 makes products in those containers available for sale in Oregon; and
- 23 (B) DEQ, upon request, only if not otherwise available from the product manufacturer.
- 24 (b) A container manufacturer's Certificate of Compliance must contain the following  
25 information:
- 26 (A) The container manufacturer's:
- 27 (i) Name;
- 28 (ii) Address; and
- 29 (iii) Name, title, address and phone number of an official representative.
- 30 (B) A description of the container or containers for which compliance or exemption is  
31 claimed; and

- 1 (C) A description of the container manufacturer's records documenting compliance.
- 2 (c) If, after review of the container manufacturer's Certificate of Compliance, DEQ  
3 determines that the information provided in the Certificate is not adequate to document that  
4 a container or containers comply with OAR 340-090-0350 through 0370, DEQ may:
- 5 (A) Request that the product manufacturer provide all or part of the documentation  
6 described in a Certificate of Compliance, other records, or additional information the  
7 container manufacturer keeps that is the basis for those records and any other information  
8 deemed necessary to determine compliance with the law. Within 15 days of this request, the  
9 product manufacturer must notify DEQ whether it will provide the requested information or  
10 if DEQ must request it directly from the container manufacturer. If the product manufacturer  
11 notifies DEQ it will satisfy the request, the manufacturer must provide the records or other  
12 material requested to DEQ within 45 days of the date of the product manufacturer's  
13 notification;
- 14 (B) If the product manufacturer cannot provide adequate documentation or other information  
15 DEQ requests within the time frame in (A) above, then DEQ may request such information  
16 directly from the container manufacturer.
- 17 (d) A container manufacturer must comply with the following procedure and time schedule  
18 when it provides information DEQ requests:
- 19 (A) The container manufacturer must provide a Certificate of Compliance to DEQ within 60  
20 days of the date of receipt of a DEQ request for the Certificate;
- 21 (B) If DEQ finds the Certificate to be incomplete, DEQ may request the missing materials  
22 from the official company representative. The container manufacturer must provide missing  
23 materials from a Certificate of Compliance to DEQ within 30 days of the date of receipt of a  
24 DEQ request for the Certificate;
- 25 (C) After it has reviewed the Certificate of Compliance, DEQ may request that the container  
26 manufacturer provide all or part of the documentation described in a Certificate of  
27 Compliance, other records, or additional information kept by the container manufacturer that  
28 is the basis for those records and any other information deemed necessary to determine  
29 compliance with the law. The container manufacturer must provide the records or other  
30 material requested to DEQ within 45 days of the date of receipt of a request for the records.
- 31 (4)(a) A container manufacturer may request an extension of the time period to submit  
32 materials DEQ requests. Such a request for extension must be in writing and be received by  
33 DEQ before the due date of DEQ's original request. The request for extension must:
- 34 (A) Provide the container manufacturer's name and address;
- 35 (B) Provide the name, title, address, and phone number of an official company  
36 representative;
- 37 (C) State a specific length for the requested extension, not to exceed 60 days; and

1 (D) Show good reason for the extension.

2 (b) Based upon the information provided in the request for extension, DEQ may grant the  
3 extension, deny the extension, or grant an extension for a lesser period of time.

4 (5) Records that document compliance with the requirements of OAR 340-090-0350 or  
5 exemption under the provisions of OAR 340-090-0340 must be maintained and available for  
6 audit by DEQ for a period of at least three years after the year for which compliance is  
7 documented.

8 (6) DEQ will consider a container manufacturer's failure to provide the following a violation  
9 of these rules:

10 (a) A Certificate of Compliance to a product manufacturer; or

11 (b) A Certificate of Compliance or additional materials to DEQ as requested and within the  
12 schedule set out in this rule.

13 (7) DEQ, at its discretion, may audit the container manufacturer directly to determine  
14 compliance with these rules.

15 **Statutory/Other Authority:** ORS 459A.025 & 468.020

16 **Statutes/Other Implemented:** ORS 459A.655 & 459A.660

17 **History:**

18 DEQ 3-2017, f. & cert. ef. 1-19-17

19 DEQ 9-1996, f. & cert. ef. 7-10-96

20 DEQ 26-1994, f. & cert. ef. 11-2-94

21 **340-090-0430**

22 **Violations**

23 (1) Violations of these rules are punishable as provided in ORS Chapter 459.995 and  
24 pursuant to OAR 340-012-0042 and 0065.

25 (2) DEQ may not enforce the provisions of ORS 459A.650 to 459A.660 during the first full  
26 calendar year after DEQ determines for the first time that the aggregate recycling rate for  
27 compliance purposes is less than 25 percent.

28 (3) DEQ may not enforce the provisions of ORS 459A.650 to 459A.660 until January 1,  
29 1998. After that time DEQ must take enforcement action for violations of ORS 459A.650 to  
30 459A.660 occurring on or after January 1, 1998.

31 **Statutory/Other Authority:** ORS 459A.025 & 468.020

32 **Statutes/Other Implemented:** ORS 459A.660 & Ch. 584 OL 1995

33 **History:**

34 DEQ 3-2017, f. & cert. ef. 1-19-17

35 DEQ 9-1996, f. & cert. ef. 7-10-96

36 DEQ 26-1994, f. & cert. ef. 11-2-94



1 **OAR-340-090-0600**  
2 **Purpose and Applicability**

3 OAR 340-090-0600 to 0810 implement the Plastic Pollution and Recycling Modernization Act,  
4 ORS 459A.860 to 459A.975. These rules also describe Producer Responsibility Organization  
5 obligations, standards and methods for local government compensation, and the recycling  
6 acceptance lists. The rules relate to the requirements of ORS 459A.869, 459A.872, 459A.875,  
7 459A.878, 459A.881, 459A.884, 459A.890, 459A.896, 459A.914, and 459A.926.

8 **Statutory/Other Authority:** ORS 459A.975 and 468.020  
9 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

10 **OAR 340-090-0610**  
11 **Definitions**

12 Unless the context requires otherwise, terms used in OAR 340-090-0600 to 0810 have the  
13 meanings provided by 459A.863.

14 **Statutory/Other Authority:** ORS 459A.975 and 468.020  
15 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

16 **OAR 340-090-0620**  
17 **Effective Date**

18 OAR 340-090-0630 to 0810 and the amendments to OAR 340-090-0005 to 0430 are effective on  
19 July 1, 2025.

20 **Statutory/Other Authority:** ORS 459A.975 and 468.020  
21 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

22 **OAR 340-090-0630**  
23 **Recycling Acceptance Lists**

24 (1) Recycling list definitions. For purposes of the recycling acceptance lists under sections 2 and  
25 3 of this rule, the terms below have the following meanings:

26 (a) “Aerosol” has the same meaning found in 40 CFR 273.9.

27 (b) “Aseptic carton” means a shelf-stable package made for a food or beverage product that is  
28 made mainly of paperboard, but also includes thin-protective layers of polyethylene and  
29 aluminum.

30 (c) “Bottle” or “Jug” means a rigid container with a neck or mouth smaller than the base.

31 (d) “Cap” means a rigid closure for ~~tubs~~-jugs or bottles that has a fastening feature that involves  
32 threads.

33 (e) “HDPE” means high density polyethylene.

- 1 (f) "Lid" means a rigid closure for tubs that has a fastening feature other than threads.
- 2 (g) "Non-metallized gift wrap" means paper gift wrap devoid of non-paper additives like  
3 metallic flakes, glitter, metalized mylar or any similar material.
- 4 (h) "PE" means polyethylene and includes HDPE, low density polyethylene and linear low  
5 density polyethylene.
- 6 (i) "PET" means polyethylene terephthalate.
- 7 (j) "PP" means polypropylene.
- 8 (k) "Pressurized cylinder" means any packaging containing flammable pressurized gas, helium  
9 or carbon dioxide, including, but not limited to, seamless cylinders and tubes, welded cylinders  
10 and insulated cylinders intended to contain helium, carbon dioxide or flammable materials such  
11 as propane, butane or other flammable compressed gases. "Pressurized cylinder" does not  
12 include:
- 13 (A) any cylinder, tube or container intended to deliver a product that is not a compressed gas;
- 14 (B) any cylinder, tube or container that is designed to be refilled and which has an active and  
15 functioning exchange system that normally causes the cylinder, tube or container to be refilled,  
16 reused, or refurbished;
- 17 (C) any cylinder, tube or container that contains pure oxygen or hydrogen;
- 18 (D) fire extinguishers;
- 19 (E) aerosol cans; or
- 20 (F) a storage tank that is permanently fixed in location.
- 21 (l) "Recycle-compatible coating" means a water-soluble barrier that can be used on fiber-based  
22 packaging that does not negatively impact the recyclability of that packaging.
- 23 (m) "Scrap metal" means ferrous and non-ferrous waste metal, metallic material, electrical  
24 wiring and any product that contains at least 50 percent metal by weight and that is capable of  
25 being recycled. Scrap metal includes major appliances that previously contained refrigerants.
- 26 (n) "Tub" means a rigid container that has a neck or mouth similar in size to its base.
- 27 (2) Local Government Recycling Acceptance List. The following material must be collected  
28 pursuant to ORS 459A.005 and ORS 459A.914(1)(a) to provide the opportunity to recycle:
- 29 (a) Corrugated cardboard; uncoated or coated with recycle-compatible coating; including pizza  
30 boxes;

- 1 (b) Paper bags and mailing envelopes, excluding those with a plastic liner or other non-pulping  
2 filler;
- 3 (c) Paperboard boxes and packaging, such as cereal, cracker and medicine boxes, excluding any  
4 flexible packaging included in the boxes, and excluding items used to package goods that are  
5 normally placed in a refrigerator or freezer;
- 6 (d) Polycoated cartons (for example milk cartons), aseptic cartons, and polycoated paper cups;
- 7 (e) Molded pulp packaging, excluding food serviceware;
- 8 (f) Spiral wound containers or composite cans made primarily of paper and steel;
- 9 (g) Tissue paper used for packaging;
- 10 (h) Non-metalized gift wrap;
- 11 (i) All printing and writing paper, including newspaper, newsprint, newspaper inserts,  
12 magazines, catalogs, similar glossy paper, telephone directories, ledger, bond, copy and printer  
13 paper, notebook paper, envelopes, cards, mail, and items made of such paper and bound with  
14 staples, and paperback books, but excluding thermal paper and hardcover books;
- 15 (j) File folders and hanging files;
- 16 (k) Plastic that fits loosely in the generator's provided on-route collection container, excluding  
17 any such item that was used to contain or store motor oil, antifreeze, or other automotive fluids,  
18 pesticides or herbicides, or other hazardous materials (flammable, corrosive, reactive, toxic), as  
19 follows:
- 20 (A) Plastic bottles and jugs that are 6 ounces and larger, including caps if screwed on, made of  
21 the following materials:
- 22 (i) PET (#1) (clear only);
- 23 (ii) HDPE (#2); and
- 24 (iii) PP (#5)
- 25 (B) Plastic tubs that are 6 ounces and larger, including caps if screwed on, made of the following  
26 materials:
- 27 (i) PET (#1);
- 28 (ii) HDPE (#2); and
- 29 (iii) PP (#5)

- 1 (C) Plastic buckets, pails, and storage containers that are 5 gallons or less, including lids if  
2 snapped on, made of the following materials:
- 3 (i) HDPE (#2); and  
4 (ii) PP (#5)
- 5 (D) Nursery (plant) packaging, such as pots and trays, made of the following materials:
- 6 (i) HDPE (#2); and  
7 (ii) PP
- 8 (E) Clear plastic cups made of the following materials:
- 9 (i) PET (#1); and  
10 (ii) PP (#5)
- 11 (l) Aluminum food, pet food, and beverage cans;  
12 (m) Steel and bi-metal cans, including empty or dry metal paint cans;  
13 (n) Scrap metal weighing less than 10 pounds and smaller than 18" in length, excluding sharp  
14 items (for example knives) and bicycle chains, electrical wiring and other wires, and other  
15 similar items likely to cause tangling;
- 16 (o) **Other scrap metal**;  
17 (p) Motor oil; and  
18 (q) Glass bottles and jars, but only from non-residential sources and only in the Metro wasteshed  
19 (this requirement is in addition to the requirements for glass recycling under section 3 of this  
20 rule).
- 21 (3) Producer Responsibility Organization Recycling Acceptance List. The following materials  
22 are designated as covered products of which a producer responsibility organization must provide  
23 for the collection through recycling depot or mobile events as provided in ORS 459A.896(1):
- 24 (a) Steel and aluminum aerosol cans;  
25 (b) Aluminum foil and products made of pressed aluminum foil;  
26 (c) Shredded paper;  
27 (d) Polyethylene film and packaging made of polyethylene film without layers of other material;  
28 (e) Plastic buckets, pails and storage containers made of HDPE (#2) or PP (#5) and the lids of  
29 such items, but excluding such items if used to contain or store motor oil, antifreeze, or other

1 automotive fluids, pesticides or herbicides, or other hazardous materials (flammable, corrosive,  
2 reactive, toxic);

3 (f) Glass bottles and jars;

4 (g) Block white expanded polystyrene;

5 (h) PE and PP lids and caps;

6 (i) HDPE package handles (for example 6-pack handles); and

7 (j) Pressurized cylinders.

8 (4) The materials listed in Section 2 of this rule must be collected as follows:

9 (a) (A) For all wastesheds, tThe materials listed in subsections (a), (b), (c), (e), (g), (h), (i), (j),  
10 (k)(A) through (C), (l) through (p) must be collected at depots as part of the opportunity to  
11 recycle pursuant to ORS 459A.005 and 459A.007;

12 (B) For the Metro wasteshed, in addition to the materials listed in subsection (a)(A) above, the  
13 materials listed in subsection (d), (f), (k)(D), and (k)(F) may also be collected at depots subject to  
14 the limitations of (d)(i) through (iii) below.

15 (b) (A) For all wastesheds, tThe materials listed in subsections (a), (b), (c), (e), (g), (h), (i), (j),  
16 (k)(A) through (C), (l) through (n) are also designated for recycling collection from collection  
17 service customers as described in ORS 459A.005(1)(a)(A) or 459A.005(1)(a)(B) and ORS  
18 459A.863(25)(a) to (e)(d);

19 (B) For the Metro wasteshed, in addition to the materials listed in subsection (b)(A) above, the  
20 materials listed in subsection (d), (f), (k)(D), and (k)(F) may also be collected at depots subject to  
21 the limitations of (d)(i) through (iii) below.

22 (c) The materials listed in subsection (q) must be collected from non-residential collection  
23 service customers as part of routine collection service described in ORS 459A.005(1)(a)(A)- and  
24 ORS 459A.863(25)(b), but only in the Metro wasteshed; and

25 (d) (A) For all wastesheds, tThe materials listed in subsections (a), (b), (c), (e), (g), (h), (i), (j),  
26 (k)(A) through (C), (l), (m), and through (n) are suitable for commingled collection and are  
27 included in the Uniform Statewide Collection List.

28 (B) For the Metro wasteshed, in addition to the materials listed in subsection (d)(A) above, the  
29 materials listed in subsection (d), (f), (k)(D), and (k)(F) may be collected as part of a  
30 commingled recycling program pursuant to ORS 459A.914(6), as follows:

31 (i) The materials listed in (d)(B) may be collected as a part of a trial or research program  
32 pursuant to ORS 459A.914(a). The goal of the trial or research will be to determine whether the  
33 materials meet the requirements of ORS 459A.914(3) in order to add them to the Uniform  
34 Statewide Collection List. In six month intervals during the trial program, the DEQ will gather

1 data from the program relevant to ORA 459A.914(3), and report the data to the producer  
2 responsibility organizations and the Oregon Recycling System Advisory Council for their  
3 review. At the end of the trial program, the producer responsibility organizations and the Oregon  
4 Recycling System Advisory Council will advise the Environmental Quality Commission of their  
5 analysis, and the commission will determine if the materials are appropriate for the Uniform  
6 Statewide Collection List. The commission will make its determination by July 1, 2027;

7 (ii) The materials listed in (d)(B) may be collected in the commingled recycling program  
8 beginning on or before July 1, 2025, and the trial or research program will be complete by  
9 December 31, 2026. The materials may continue to be collected until December 31, 2027,  
10 unless the commission directs otherwise; and

11 (iii) The trial or research program is limited to the Metro wasteshed.

12 (e) In accordance with this subsection, a local government may submit a request for additional  
13 time to meet the obligation to collect materials on the Uniform Statewide Collection List  
14 pursuant to section 2 of this rule to DEQ for approval, if the local government's ability to  
15 successfully collect the materials is dependent on the local government receiving funding for  
16 trucks, containers, or a reload facility requested from a producer responsibility organization  
17 through the 2023 needs assessment, pursuant to ORS 459A.890(8), and the local government has  
18 not yet received the funding. The local government must provide any information requested by  
19 DEQ to review the local government's request and describe to the satisfaction of DEQ the local  
20 government's process and timeline for complying with the obligation to collect all materials on  
21 the Uniform Statewide Collection List pursuant to section 2 of this rule. DEQ may approve the  
22 request, with or without conditions, if it determines that the local government's ability to  
23 successfully collect the materials that are the subject of the request is dependent on the local  
24 government receiving funding for trucks, containers, or a reload facility requested from the  
25 producer responsibility organization through the 2023 needs assessment, pursuant to ORS  
26 459A.890(8), and the local government has not yet received the funding.

27 [Note: ORS 459A.914(4)(b) authorizes additions to the Uniform Statewide Collection List  
28 through methods other than rulemaking. Materials not on the Uniform Statewide Collection List  
29 shall not be collected commingled with other materials per ORS 459A.914(5). The Uniform  
30 Statewide Collection List consists of materials designated in (d) above plus additional materials  
31 approved by DEQ pursuant to ORS 459A.914(4)(b). For the full list of materials on the Uniform  
32 Statewide Collection List consult Oregon Department of Environmental Quality's Materials  
33 Management Program.]

34 **Statutory/Other Authority:** ORS 459A.975 and 468.020

35 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

36 **OAR 340-090-0640**

37 **Convenience Standards**

38 (1) For purposes of ORS 495A.896(1) and this rule:

39 (a) An existing recycling depot or drop off center is any place located in Oregon that accepts any  
40 recyclable material from the general public at the time the producer responsibility organization

1 submits its most recent Program Plan or plan amendment, and which also meets at least one of  
2 the following five criteria:

3 (A) The recycling depot or drop off center is used by a local government to satisfy the  
4 requirement in ORS 459A.005(1)(a)(A) to provide a place for collecting source separated  
5 recyclable material, including the materials on the uniform statewide collection list established  
6 under ORS 459A.914 designated for collection at a recycling depot, located either at a disposal  
7 site or at another location more convenient to the population being served.

8 (B) The recycling depot or drop off center is used by a local government to satisfy the optional  
9 opportunity to recycle program element described in ORS 459A.007(1)(g).

10 (C) The recycling depot or drop off center is operated by or at the direction of a Tribal  
11 government.

12 (D) The recycling depot or drop off center is located at a site that operates under a valid solid  
13 waste permit issued by the DEQ.

14 (E) The recycling depot or drop off center is operated by or at the direction of a local government  
15 or a local government's service provider, as defined in ORS 459A.863(12).

16 (b) For purpose of satisfying obligations under ORS 459A.896, it is possible for a producer  
17 responsibility organization to contract with an existing recycling depot or drop off center to  
18 provide for collection of a covered product or products if the recycling depot or drop off center  
19 meets all the following conditions:

20 (A) The operator of the existing recycling depot or drop off center is willing to contract to  
21 provide collection service on behalf of the producer responsibility organization.

22 (B) The operator of the existing recycling depot or drop off center is able to meet all  
23 performance standards and other requirements on the producer responsibility organization and to  
24 provide collection service on behalf of the producer responsibility organization.

25 (C) The annual cost to the producer responsibility organization to contract for collection and  
26 recycling of a material or set of materials with the recycling depot or drop off center **does not**  
27 **exceed 1150** percent of the cost the producer responsibility organization would otherwise pay to  
28 provide a collection point for that material or set of materials.

29 (D) The operator of the existing recycling depot or drop off center demonstrates to the producer  
30 responsibility organization that the cost of reimbursement it requests are reasonable and only  
31 pays for additional costs associated with collection of the additional materials. An existing  
32 recycling depot or drop off center and a producer responsibility organization will resolve any  
33 disputes concerning the reasonableness of reimbursement costs through the dispute resolution  
34 process described in ORS 459A.875(2)(e).

35 (c) An existing recycling depot or drop off center that contracts with a producer responsibility  
36 organization pursuant to ORS 459A.896(1) must meet all relevant requirements of the producer

1 responsibility organization, including performance standards as described in OAR 340-090-0660  
2 and requirements for responsible end market disposition (ORS 459A.896(2)).

3 (d) For purposes of paragraphs (a)(A) and (B) of this section, if a local government has more  
4 than the minimum number of depots or drop off centers required by ORS 459A.005(1)(a)(A) or  
5 459.007(1)(g) the local government must inform a producer responsibility organization, upon  
6 request, which depots or drop off centers are being used to meet the requirements of ORS  
7 459A.005(1)(a)(A) or 459.007(1)(g). If a local government fails to provide the information  
8 within 90 days of a request DEQ may, after consulting with the local government and producer  
9 responsibility organization, determine which depots or drop off centers are being used to meet  
10 the requirements of ORS 459A.005(1)(a)(A) or 459.007(1)(g).

11 (e) If a recycling depot or drop off center that does not meet the requirements of subsection (a) of  
12 this section subsequently comes into compliance with those requirements a producer  
13 responsibility organization must contract with the recycling depot or drop off center within 12  
14 months of the recycling depot or drop off center meeting the requirements of subsection (a) of  
15 this section, provided that the recycling depot or drop off center also meets the other  
16 requirements of this section. If the addition of the recycling depot or drop of center results in the  
17 producer responsibility organization exceeding the minimum number of collection points  
18 required by subsections (2)(d) to (f) of this rule the producer responsibility organization may  
19 discontinue service at another collection point in the same community, subject to the  
20 requirements of section 4 of this rule.

21 (f) If a producer responsibility organization determines that it is not possible to contract with an  
22 existing recycling depot or drop off center pursuant to subsection (2)(a) of this rule, due to the  
23 exceedance of the price premium cap in paragraph (1)(b)(C) of this rule, DEQ may request  
24 financial information from both the producer responsibility organization and the existing facility  
25 to verify that the cap would be exceeded. A producer responsibility organization must provide  
26 the information requested by DEQ and may not prohibit, by nondisclosure agreement or other  
27 mechanism, the sharing of the requested information by the existing facility.

28 (A) Information submitted by both the producer responsibility organization and the existing  
29 facility will be held confidential as set forth at ORS 459A.962 and OAR 340-090-0710. The  
30 DEQ's decision will follow the dispute resolution process as set forth at ORS 459A.875(2)(e).

31 (2) Minimum number of collection points. For purposes of this section a collection point is a  
32 location that accepts from the public one or more materials on the Producer Responsibility  
33 Organization Recycling Acceptance List acceptance list pursuant to OAR 340-090-0630(3) and  
34 which meets all performance standards as described in OAR 340-090-0660. A producer  
35 responsibility organization must provide the following minimum number of collection points:

36 (a) A producer responsibility organization must provide for collection and recycling of all  
37 covered products on the producer responsibility organization acceptance list, pursuant to OAR  
38 340-090-0630(3), at any existing recycling depot or drop off center where it is possible, as  
39 provided by subsection 1(b) of this rule.



- 1 (b) A producer responsibility organization must meet the base convenience standard described in  
2 paragraphs (d)(A), (d)(B) and (e)(A) and (B) of this section for every material described in the  
3 producer responsibility organization recycling acceptance list, pursuant to OAR 340-090-  
4 0630(3), except as provided by subsection (c) of this section.
- 5 (c) A producer responsibility organization must meet the enhanced convenience standard  
6 described in paragraphs (d)(A), (d)(C) and (e)(C) and (D) of this section for the materials  
7 identified in OAR 340-090-0630(3)(d) – (f), (h) and (i).
- 8 (d) Collection points in counties.
- 9 (A) A producer responsibility organization must provide at least one collection point in every  
10 county for every covered product on the producer responsibility organization acceptance lists.
- 11 (B) For each material subject to the base convenience standard in subsection (b) of this section, a  
12 producer responsibility organization must provide one additional collection point as follows:
- 13 (i) For Clackamas, Multnomah and Washington counties, one additional collection point for  
14 every 60,000 residents of that county.
- 15 (ii) For all other counties, one additional collection point for every 40,000 residents of that  
16 county.
- 17 (C) For each material designated for enhanced convenience pursuant to subsection (c) of this  
18 section, a producer responsibility organization must provide one additional collection point as  
19 follows:
- 20 (i) For Clackamas, Multnomah and Washington counties, one additional collection point for  
21 every 45,000 residents of each county.
- 22 (ii) For all other counties, one additional collection point for every 30,000 residents of that  
23 county.
- 24 (D) Where the required number of collection points for a county exceeds the sum of the  
25 collection points required by subsections (a) and (e) of this section, the additional collection  
26 points shall be located in unincorporated areas of the county. The producer responsibility  
27 organization shall consult with the county government and consider areas recommended by the  
28 county for placement of such collection points.
- 29 (e) Collection points in cities.
- 30 (A) For every material subject to the base convenience standard in subsection (b) of this section,  
31 a producer responsibility organization must provide for at least one collection point:
- 32 (i) In each city in Clackamas, Multnomah and Washington counties with a population of 14,000  
33 or more residents; and
- 34 (ii) In all other cities with a population of 7,000 or more residents.

- 1 (B) For every material subject to the base convenience standard in subsection (b) of this section,  
2 a producer responsibility organization must provide additional collection points in a city as  
3 follows:
- 4 (i) For cities in Clackamas, Multnomah and Washington counties, one additional collection point  
5 for every 75,000 residents of the city; and
- 6 (ii) In all other cities one additional collection point for every 35,000 residents of the city.
- 7 (C) For each material designated for enhanced convenience, pursuant to subsection (c) of this  
8 section, a producer responsibility organization must provide at least one collection point as  
9 follows:
- 10 (i) In cities in Clackamas, Multnomah and Washington counties with a population of 8,000 or  
11 more residents; and
- 12 (ii) In all other cities with a population of 4,000 or more residents.
- 13 (D) A producer responsibility organization must provide one additional collection point in a city  
14 for every covered product designated for enhanced convenience:
- 15 (i) For cities in Clackamas, Multnomah and Washington counties, one collection point for every  
16 50,000 residents of the city; and
- 17 (ii) For all other cities one collection point for every 30,000 residents of the city.
- 18 (E) If more than one collection point for any material is required within a single city, the  
19 producer responsibility organization shall locate the collection points within the city so that no  
20 major sections of the city lack convenient service relative to other areas of the city. A producer  
21 responsibility organization must coordinate with DEQ to meet the requirements of this  
22 paragraph.
- 23 (F) If more than one collection point for any material is provided within a single city, at least 50  
24 percent of all collection points for each material used to satisfy subsection (2)(e) of this rule shall  
25 be located in such a way as to be convenient to users of transit service, if the city is served by  
26 transit service. The producer responsibility organization shall describe in its program plan how  
27 this requirement is satisfied.
- 28 (f) A producer responsibility organization must provide sufficient collection points for all  
29 materials on the producer responsibility organization acceptance list such that 95 percent of all  
30 residents of Oregon live within 15 miles of a collection point.
- 31 (g) A producer responsibility organization may use the same collection points to meet the  
32 requirements of subsections (a), (d), (e) and (f).
- 33 (h) A producer responsibility organization must describe in its program plan how it will provide  
34 enhanced access to recycling of materials on the producer responsibility organization acceptance  
35 list for populations that may otherwise find it difficult to participate in service at collection

- 1 points (for example valet service for vehicle users in wheelchairs and partnering with service  
2 organizations that work with homebound populations).
- 3 (3) Days and hours of operation. Collection points described in Section 2 of this rule must be  
4 available to the public as follows:
- 5 (a) If the collection point is co-located with a “parent” facility (for example a retailer if return-to-  
6 retail, or an existing depot) the same hours of operation as that parent facility is open.
- 7 (b) For all other collection points (stand-alone sites) 4 days per week (with exceptions provided  
8 for on legal holidays), at least one of which must be Saturday or Sunday and at least 8 hours each  
9 of those 4 days.
- 10 (4) Notification of changes and continuity of services.
- 11 (a) Except as provided by subsection (c) of this section, a producer responsibility organization  
12 must provide DEQ and a collection point operator at least three months’ notice in writing if a  
13 producer responsibility organization closes a collection point. The producer responsibility  
14 organization must also provide a concurrent notice to users of the collection point using  
15 prominently placed signage at the collection point location and on a website used by the  
16 producer responsibility organization for promotion with the public. Collection point closure  
17 notices must include the following information:
- 18 (A) Date of service discontinuation; and
- 19 (B) Alternative collection point location(s) or service information.
- 20 (b) Except as provided by subsection (c) of this section, if a collection point that a producer  
21 responsibility organization is using to satisfy the requirements of subsection (2)(a) of this rule no  
22 longer meets any of the conditions of subsection (1)(b) of this rule, the producer responsibility  
23 organization must not discontinue service until one of the following occurs:
- 24 (A) The contract with the site operator expires;
- 25 (B) The program plan period ends; or
- 26 (C) The parties reach mutual agreement.
- 27 (c) A producer responsibility organization may close a collection point for or discontinue  
28 acceptance of pressurized cylinders or aerosol cans without three months’ notice in writing if:
- 29 (A) the collection point operator is an entity other than the producer responsibility organization;
- 30 (B) the collection point is not in compliance with contractual terms related to environmental  
31 protection or human health;
- 32 (C) The producer responsibility organization provides prior notice of its intention to discontinue  
33 the collection point; and

1 (D) The collection point does not promptly correct the issue.  
2 (d) If a producer responsibility organization discontinues service pursuant to subsection (c) it  
3 shall notify DEQ as soon as possible and provide notice to users of the collection site.

4 (5) If a covered product on a producer responsibility organization's recycling acceptance list  
5 pursuant to administrative rule is subsequently added to the uniform statewide collection list  
6 pursuant to ORS 459A.914(4)(b), a producer responsibility organization must meet obligations  
7 for collection as follows:

8 (a) only at existing recycling depots or drop off center, as provided by subsection (2)(a) of this  
9 rule; and

10 (b) only if the depot or drop off center is continuing to collect the materials as source separated.

11 (6) Alternative compliance.

12 (a) A producer responsibility organization may propose an alternative to the requirements of  
13 section 2 of this rule in writing in the producer responsibility organization program plan or an  
14 amendment to the plan for approval by the department. If the alternative results in a city or  
15 county receiving fewer collection points than required by section 2 of this rule, the producer  
16 responsibility organization must demonstrate that it has consulted with the city or county  
17 regarding the proposed alternative approach.

18 (b) If a producer responsibility organization proposes to use collection events as an alternative to  
19 the requirements of section 2 of this rule, such events must be predictable (fixed set of locations  
20 on a regular schedule and promoted far in advance); and widely advertised.

21 **Statutory/Other Authority:** ORS 459A.975 and 468.020

22 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

23 **OAR 340-090-0650**

24 **Performance Standards**

25 (1) Performance standards generally. In providing for the collection and responsible recycling of  
26 covered products pursuant to ORS 459A.896(1), a producer responsibility organization must  
27 ensure that the following performance standards are met:

28 (a) Methods. A producer responsibility organization's program plan must provide for how the  
29 producer responsibility organization will achieve and maintain collection targets provided by  
30 OAR 340-090-0640, convenience standards provided by OAR 340-090-0650, and performance  
31 standards. For performance standards, the program plan shall include a description of how the  
32 producer responsibility organization will monitor sites and services on a regular basis to ensure  
33 compliance with, and reporting to DEQ in a timely manner of any deviations from the program  
34 plan and performance standards under this rule.

35 (b) Free to the public. No fee shall be charged to users of any depot or drop off services,  
36 collection events or collection services as provided under ORS 459A.896(1)(a) through (c). If

- 1 depot collection is provided at a location that normally charges users to access the site (such as a  
2 gate fee at a solid waste transfer station), the producer responsibility organization must arrange  
3 to waive the fee for the delivery of any covered products on the producer responsibility  
4 organization recycling acceptance list.
- 5 (c) Promotion. A producer responsibility organization must promote the availability of collection  
6 opportunities, how to properly prepare materials for recycling and how to utilize collection  
7 opportunities. Such promotion must use methods and materials that are clear, culturally relevant,  
8 accessible, and understandable to diverse audiences. A producer responsibility organization must  
9 make available to the public through a website that is maintained and available in multiple  
10 languages the location and hours of operation for all collection points, and information on how to  
11 properly prepare materials for collection.
- 12 (d) Accessibility. All collection services shall be reasonably accessible for users of diverse  
13 abilities, and safe to interact with for users and service operators. Sites that are unstaffed during  
14 some or all hours of operation shall provide a prominently featured hotline number and protocols  
15 for quickly responding to concerns regarding site safety, environmental impacts, or accessibility.
- 16 (e) Contamination prevention and management. Collection services shall be offered and operated  
17 in ways that minimize acceptance of contamination, and that minimize the presence of  
18 contamination in outbound materials. A producer responsibility organization's program plan  
19 must include protocols for managing materials that are not on the producer responsibility  
20 organization recycling acceptance list but that are delivered to collection points or events. Such  
21 protocols must include screening and then accepting and managing the material appropriately,  
22 rejecting the material or both, and must also include providing service users with information on  
23 proper recycling or disposal options.
- 24 (f) Quality assurance. Collection services must be operated in a manner that maintains the quality  
25 and marketability of collected materials, including collection of materials indoors or under cover  
26 when appropriate.
- 27 (g) Litter mitigation. Collection services and associated handling of collected material must be  
28 operated in a manner to prevent litter and any other pollution to air or water.
- 29 (h) Self-reporting. A producer responsibility organization must report to DEQ, within 2 business  
30 days, any incidents that substantially impact the availability or quality of service, or which  
31 require the presence of emergency responders (for example police, medical or fire).
- 32 (2) Additional performance standards for collection events. In addition to the performance  
33 standards in section 1 of this rule, a producer responsibility organization must meet the following  
34 performance standards for collection events:
- 35 (a) Public education and outreach. A producer responsibility organization shall coordinate with  
36 relevant local governments and service providers regarding public outreach and promotion in  
37 advance of any collection event.

1 (b) Staffing and resourcing. A producer responsibility organization shall include in its program  
2 plan detailed policies and processes to ensure adequate staffing, managing traffic flow, ensuring  
3 safety, and contingency plans for responding to larger-than-expected turnout.

4 (3) Material specific performance standards. A producer responsibility organization must meet  
5 the following additional performance standards when managing the materials listed in this  
6 section:

7 (a) Block white Expanded Polystyrene (EPS):

8 (A) Collection and transportation of EPS must be conducted in a manner designed to reduce life  
9 cycle environmental impacts. Collected EPS shall be densified (compressed into a brick-like  
10 form, with most air removed), as described in paragraph B of this subsection, before transporting  
11 EPS a distance greater than 75 miles. An alternative threshold distance may be used if approved  
12 by DEQ in a producer responsibility organization's program plan.

13 (B) EPS shall be densified using technologies described in the producer responsibility  
14 organization's program plan after consideration of impacts on yield, transport quantities  
15 (density), and worker safety and exposure. Densification shall occur in a manner that minimizes  
16 worker exposure to air toxics. A producer responsibility organization may only use thermal  
17 densification technology if approved to do so by DEQ in its program plan or a plan amendment.  
18 A producer responsibility organization must include an assessment of potential impacts to  
19 workers and methods that will be followed to minimize such impacts.

20 (b) Aerosol cans and pressurized cylinders:

21 (A) A producer responsibility organization may not accept aerosol cans or pressurized cylinders  
22 from any non-residential generator unless that non-residential generator affirms in writing its  
23 status as a very small quantity generator pursuant to 40 CFR 260.10 and 40 CFR part 262. Any  
24 collection point that accepts aerosol cans or pressurized cylinders must be staffed and have  
25 acceptance protocols in place to ensure that it does not accept any non-exempt hazardous waste.

26 (B) A producer responsibility organization shall ensure that all aerosol cans collected pursuant to  
27 ORS 459A.896(1) are managed according to universal waste standards pursuant to 40 CFR part  
28 273. Aerosol cans shall be punctured and their contents safely removed, characterized, and  
29 managed in accordance with applicable hazardous waste standards where appropriate, prior to  
30 sending the empty container to be recycled. The handler of the containers shall meet the  
31 standards of 40 CFR 273.13(e)(4) which include but are not limited to following a written  
32 procedure for puncturing cans, conducting a hazardous waste determination of all contents,  
33 puncturing the cans with a device designed for that purpose, handling waste from the cans safely  
34 and recycling the metal.

35 (C) A producer responsibility organization shall ensure that any pressurized cylinders collected  
36 pursuant to ORS 459A.896(1) are managed in accordance with the following standard:  
37 pressurized cylinders shall be processed by a regulated hazardous waste treatment, storage, and  
38 disposal facility, which shall remove and manage contents according to hazardous waste

1 standards, and then send the containers to a metal recycler or prepare them for reuse. This  
2 paragraph does not require the manifesting of pressurized cylinders.

3 **Statutory/Other Authority:** ORS 459A.975 and 468.020

4 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

5 **OAR 340-093-0660**

6 **Collection Targets**

7 (1) Collection Targets Generally. A collection target or collection rate is a percentage of total  
8 amount of a material generated and is calculated using weight.

9 (a) For each material on the producer responsibility recycling acceptance list pursuant to OAR  
10 340-090-0630(3), for which collection targets are established, a producer responsibility  
11 organization must report, in the annual report required under ORS 459A.887, the weight of  
12 collected materials, an estimate of the weight of materials generated, and the ratio of the two,  
13 where the weight of collected materials is the numerator and the estimate of weight of materials  
14 generated is the denominator. For materials without collection targets only the weight of  
15 collected materials must be reported.

16 (b) A collection rate will be calculated by dividing the weight of materials collected (numerator)  
17 by the weight of the materials generated (denominator).

18 (c) A producer responsibility organization must document all data sources, references,  
19 assumptions and calculations used in calculating collection rates. When estimating the weight of  
20 materials generated, a producer responsibility organization must consider data provided by DEQ,  
21 its own collection records, and other weight-based data, in addition to sales data reported to it by  
22 its members.

23 (d) The calculation of the numerator in the collection rate may only include the weight of  
24 materials targeted for collection and recycling, and may not include the weight of contamination.

25 (e) Unless otherwise specified in this rule, the numerator in a producer responsibility  
26 organization's collection rate calculation may only include the weight of materials collected by  
27 the producer responsibility organization (including any party operating under contract to or at the  
28 direction of the producer responsibility organization).

29 (f) As part of its annual report, a producer responsibility organization must demonstrate that it  
30 has met the collection target for each material, and if not, the reasons for not meeting the  
31 collection target and the specific actions the producer responsibility organization proposes to  
32 implement to achieve the collection target.

33 (2) Materials-Specific Collection Targets. Materials shall have the following collection targets:

34 (a) Glass. The collection target for glass will be 45 percent and will be calculated as follows:

1 (A) The numerator is all glass packaging collected at producer responsibility organization depots  
2 or other collections as provided under ORS 459A.896(1) and all glass collected by local  
3 governments or their designated service providers (for example on-route collection).

4 (B) The denominator is all glass packaging (bottles and jars) generated in Oregon, less bottle bill  
5 collections.

6 (b) Polyethylene film. The collection target for polyethylene film is as follows:

7 (A) 25 percent in 2028,

8 (B) 27 percent in 2029,

9 (C) 29 percent in 2030,

10 (D) 31 percent in 2031,

11 (E) 33 percent in 2032,

12 (F) 35 percent in 2033,

13 (G) 37.5 percent in 2034,

14 (H) 40 percent in 2035,

15 (I) 42 percent in 2036,

16 (J) 44 percent in 2037,

17 (K) 46 percent in 2038,

18 (L) 48 percent in 2039, and

19 (M) 50 percent by 2040 and in subsequent years.

20 (c) Other materials. A producer responsibility organization must propose collection targets for  
21 other materials each time it submits a program plan for approval. Other materials that a producer  
22 responsibility organization must propose collection targets for include those identified in OAR  
23 340-090-0630(3)(a), (b), (e), and (g) – (j). In program plans after the first plan, the producer  
24 responsibility organization must propose an increase in the collection target for these select other  
25 materials or provide a justification and explanation for why it is not proposing an increase. A  
26 producer responsibility organization may propose one combined collection target and report one  
27 combined collection rate for materials identified in OAR 340-090-0630(3)(h) and (i).

28 **Statutory/Other Authority:** ORS 459A.975 and 468.020

29 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

30 **OAR 340-090-0670**

31 **Responsible End Markets**



1 (1) Definition of end market. For purposes of ORS 459A.869(7) and ORS 459A.896(2)(a), end  
2 markets are defined by material as follows:

3 (a) For glass the end market is the entity that initially converts first uses the glass into a recycled  
4 feedstock. in lieu of a virgin material downstream of the beneficiation plant, if any, where bottles  
5 are crushed, for example a bottle manufacturer, fiberglass manufacturer or pozzolan (used to  
6 make cement and concrete) producer.

7 (b) For metal the end market is the entity that initially converts the metal into a recycled  
8 feedstock. smelts the recycled material and produces ingots, sheet, coil, or other materials that  
9 are subsequently refabricated into packaging or product.

10 (c) For paper the end market is the entity that initially converts the paper into a recycled  
11 feedstock. re-pulps the recycled material either into a pulp product that is sold to paper  
12 manufacturers or used to produce paper or paperboard products. If paper is recycled in a manner  
13 that does not involve repulping (for example, used to produce a wallboard product), the end  
14 market is the entity that uses the waste paper to produce a product that is sold without further  
15 transformation or manufacturing.

16 (d) For plastic the end market is the entity that initially converts the plastic into a recycled  
17 feedstock. For any plastic other than PET, Polypropylene, or HDPE bottles, as well as any plastic  
18 feedstock used, except for plastic that is recycled to produce packaging for food or beverage  
19 applications or for production of children's products, the end market is the entity that places the  
20 recycled feedstock either last handles flake or pellet containing recycled plastic prior to sale or  
21 transfer to another person that creates a new product either by placing it into a mold or through  
22 extrusion or thermoforming for the manufacture of such packaging or product. .

23 (e) For purposes of (1)(a) through (d) above, recycled feedstock is defined as a material collected  
24 as recycling that is converted by some process into the raw material used to manufacture and  
25 produce finished goods that contain recycled content. A recycling material becomes a recycled  
26 feedstock at the point when it is initially converted. plastic that is recycled to produce packaging  
27 for food and beverage applications or for production of children's products, the end market is the  
28 entity that places it into a mold for the manufacturer of such packaging or product.

29 (2) Standard for responsible end markets.

30 (a) For an end market to be a responsible end market, the end market and all entities in the  
31 supply chain leading to the end market must meet the following standards:

32 (A) Compliant. Meaning the entity follows its own local, state, and national laws (including  
33 relevant environmental, labor, and public health laws) and treaty obligations, and is registered  
34 and permitted as required by local, state, and national authorities.

35 (B) Transparent. Meaning the entity is willing to be named and audited, provides chain of  
36 custody documentation tracking materials (originating in Oregon) to disposition, maintains  
37 record keeping relevant to chain of custody and material disposition in accordance with ORS

1 459A.962(7), and promptly documents within the chain of custody any penalties, violations or  
2 regulatory orders received.

3 (C) Environmentally-sound. Meaning the entity is willing to be audited and monitored for  
4 outdoor air, water and land emissions and disposal; stores and manages waste and recyclables in  
5 a way that avoids release into the environment; and manages inputs sustainably. This includes  
6 demonstrating adequate emergency response and environmental health, safety, and management  
7 plans; and

8 (D) Achieving adequate recycling yields. Meaning the recycling supply chain recycles or causes  
9 to be recycled at least 60 percent of each material listed in the recycling acceptance lists (if  
10 applicable, consisting of the uniform statewide collection list developed pursuant to OAR 340-  
11 090-0630(4) and ORS 459A.914(4)(b), the producer responsibility organization recycling  
12 acceptance list as described in OAR 340-090-0630(3), and the list of specifically identified  
13 materials as promulgated and maintained by DEQ pursuant to ORS 459A.917, even if multiple  
14 materials are mixed together, with the remaining material managed in a responsible manner and  
15 in alignment with Oregon's hierarchy of materials management pursuant to ORS 459.015.

16 (b) The responsible standard described in subsection (a) of this section applies to all entities in  
17 the supply chain after the commingled recycling processing facility or producer responsibility  
18 organization collection point (or post-collection in a supply chain without either facility) up to,  
19 and including, the end market.

20 (c) Recycling yield, as stated in section 2(a)(D) of this rule, will be determined as follows:

21 (A) For all materials except for spiral wound containers or composite containers made of paper  
22 and steel, the recycling yield is the amount of the material that was successfully processed by the  
23 end market divided by the amount of the material that entered the recycling supply chain  
24 initially.

25 (B) For spiral wound containers or composite containers made of paper and steel, the recycling  
26 yield is the amount of the metal fraction or paper fraction of the material that was successfully  
27 processed by the end market, divided by the amount of that fraction that entered the recycling  
28 supply chain initially. If the yield of either the metal fraction or of the paper fraction exceeds 60  
29 percent, the composite material is achieving adequate yields.

30 (C) Calculation of recycling yield shall exclude any contaminants that are included in the bale of  
31 received material, as well as incidental materials that are adhered to the received material but are  
32 not targeted for recovery, such as tape and staples on corrugated boxes, or inks and labels on  
33 most types of packages.

34 (D) For the purpose of determining whether at least 60 percent of each material is recycled, yield  
35 for individual materials that are recycled separately from other materials must be evaluated on  
36 the basis of those individual materials. For materials that are mixed together (such as a bale of  
37 mixed paper or mixed plastic), yield must be evaluated as follows:

- 1 (i) Yield for items listed in OAR 340-090-0630(2)(d) must be evaluated separately from other  
2 materials.
- 3 (ii) Yield for items listed in OAR 340-090-0630(2)(f) must be evaluated separately from other  
4 materials if recycled at a paper mill.
- 5 (iii) Yield for items listed in OAR 340-090-0630(2)(k) must be evaluated separately for materials  
6 identified in each subparagraph of paragraphs (A) through (E).
- 7 (iv) Yield must be evaluated separately for any materials proposed by a producer responsibility  
8 organization for addition to the uniform statewide collection list pursuant to ORS  
9 459A.914(4)(b) in a producer responsibility program plan or plan amendment and approved by  
10 DEQ under ORS 459A.878, if required by DEQ.
- 11 (v) Yield for other materials mixed together may be evaluated in total.
- 12 (3) Implementation of the responsibility standard by a producer responsibility organization.
- 13 (a) A producer responsibility organization must ensure that materials collected for recycling go  
14 to responsible end markets as detailed in ORS 459A.896(2) and this rule by completing the  
15 following two steps successively:
- 16 (A) First, a producer responsibility organization must, using a screening assessment form  
17 provided by DEQ, receive and corroborate written verification from each end market and  
18 intermediary supply chain entity that it meets the responsible standard provided by section 2 of  
19 this rule.
- 20 (B) Next a producer responsibility organization must conduct a more detailed assessment of  
21 whether each end market and intermediary supply chain entity meets the responsible standard  
22 provided by section 2 of this rule, either through a verification by the producer responsibility  
23 organization as provided by subsection (e) of this rule or through third-party certification from an  
24 Environmental Quality Commission-approved program.
- 25 (b) For materials described under ORS 459A.869(7)(a) and any other materials collected by a  
26 producer responsibility organization (including collected through contract with a producer  
27 responsibility organization), a producer responsibility organization must complete the step  
28 provided by paragraph (a)(A) by the start date of the program (as defined in OAR 340-090-  
29 0720), and the step provided by paragraph (a)(B) within one year of the start date of the program.  
30 For such materials added after the start date of the program a producer responsibility  
31 organization must complete the step provided by paragraph (a)(A) prior to delivery of the  
32 materials to the end market, and the step provided by paragraph (a)(B) within six months of first  
33 delivery to the end market.
- 34 (c) For materials described under ORS 459A.869(7)(b) and any other materials not collected by  
35 the producer responsibility organization, a producer responsibility organization must complete  
36 the step provided by paragraph (a)(A) within six months of the program start date (as defined in  
37 OAR 340-090-0720, and the step provided by paragraph (a)(B) within 15 months of the start date

1 of the program. For such materials added after the start date of the program a producer  
2 responsibility organization must complete the step provided by paragraph (a)(A) within six  
3 months of delivery of the materials to the end market, and the step provided by paragraph (a)(B)  
4 within 15 months of first delivery to the end market.

5 (d) If a producer responsibility organization completes the step provided by paragraph (a)(B)  
6 prior to and within the timeline of the step provided by paragraph (a)(A), the producer  
7 responsibility organization is not required to perform the step provided by paragraph (a)(A).

8 (e) The producer responsibility verification required by paragraph (a)(B) of this section must  
9 contain the following:

10 (A) A description of how a producer responsibility organization determined that the indicated  
11 entity or entities (if final disposition occurred at multiple sites) was the end market;

12 (B) A list of local, state and national laws and international treaties applicable to the entity as  
13 required by section 2(a)(A) of this rule;

14 (C) Documentation that the end market and intermediary supply chain entities meet all  
15 requirements of section 2 of this rule;

16 (D) Documentation of any noncompliance with the requirements section 2 of this rule.

17 (E) Documentation of the qualification of the auditor required by section 4 of this rules; and

18 (F) Certification and signature from the auditor required by section 4 of this rule that the end  
19 market meets the requirements of section 2 of this rule.

20 (f) The detailed verifications required by paragraph (a)(B) of this rule and certification audits  
21 required by section 4 of this rule must occur on an annual basis, with the first renewal  
22 verification or certification audits occurring within a year of initial certification.

23 (4) Auditing. To demonstrate compliance with the requirement that materials collected for  
24 recycling go to responsible end markets as required by ORS 459A.896(2) and this rule, a  
25 producer responsibility organization must conduct auditing and provide audit results in annual  
26 reporting to DEQ. These audits must include results of random bale tracking to verify chain of  
27 custody and must demonstrate and certify that end markets meet the requirements of section 2  
28 and 3 of this rule. For the purposes of enforcement, DEQ may conduct its own random bale  
29 tracking.

30 (5) Definition of practicable. For purposes of ORS 459A.869(7) and ORS 459A.896(2),  
31 practicable actions that may be undertaken by a producer responsibility organization must be  
32 determined in accordance with this rule.

33 (a) Practicable actions may include, but are not limited to, the following:

34 (A) Providing financial support to help an existing end market that does not meet the standard for  
35 responsible under section 2 of this rule or an existing market that is not in alignment with the

- 1 hierarchy of materials management options under ORS 459A.015(2), to upgrade or change  
2 operations to become responsible or aligned with the hierarchy of materials management.
- 3 (B) Providing financial support to divert materials to a different end market that is responsible  
4 under section 2 of this rule or in alignment with the hierarchy of materials management.
- 5 (C) Directing materials to an alternative end market if materials are directly under producer  
6 responsibility organization control.
- 7 (D) Offering to buy or take ownership of materials to directly control their flow if materials are  
8 not already directly under the control of the producer responsibility organization.
- 9 (E) Developing a new market for a material.
- 10 (b) If the results of an audit under section 4 of this rule show that an end market does not meet  
11 the responsible end market standards in section 2 of this rule, the producer responsibility  
12 organization must carry out practicable actions to meet the responsible end market standards in  
13 section 2 of this rule.
- 14 (c) A producer responsibility organization may not claim that an action is not practicable simply  
15 because it results in higher costs for the producer responsibility organization. A claim that an  
16 action is not practicable must demonstrate costs that are not justified given the resulting societal  
17 benefits. A producer responsibility organization must choose one of the following two methods  
18 for showing that costs are not justified given resulting societal benefits:
- 19 (A) Evaluate the per-ton transactional costs of all possible solutions against the benchmark for  
20 average societal benefit of recycling. The benchmark for average societal benefit of recycling is  
21 \$2,017 per ton expressed in 2021 dollars, and will be adjusted for inflation no more frequently  
22 than once per year. Any adjustment shall be limited to an adjustment using the CPI - U as  
23 published by the Bureau of Labor Statistics, using calendar year 2021 as the base year which  
24 corresponds to the benchmark value. A per-ton cost lower than the societal benefit benchmark is  
25 cost effective and potentially practicable. A per-ton cost higher than the per-ton societal benefit  
26 value is not practicable.
- 27 (B) Perform an analysis of financial costs and societal benefits customized to the particular  
28 materials and practices at hand. A customized approach could be warranted under several  
29 circumstances, such as if the material in question has a societal benefit well below the system-  
30 wide average.
- 31 (d) The department will review and evaluate a producer responsibility organization claim that an  
32 action is not practicable due to costs. If the department agrees with the claim, the department will  
33 then review the material in question and its inclusion in a recycling acceptance list. If the  
34 department's review determines that an action is practicable, then the producer responsibility  
35 organization must immediately undertake that action.
- 36 (e) DEQ will consult with the Oregon Recycling System Advisory Council prior to deciding if an  
37 action is practicable.

1 (6) Reporting. A producer responsibility organization must append all screening assessments,  
2 verification reports, and certification reports conducted in a given quarter to quarterly disposition  
3 reports submitted to DEQ pursuant to ORS 459A.887(6).

4 (7) Application of Oregon’s Material Management Hierarchy. In cases of conflict between the  
5 elements of Oregon’s material management hierarchy under ORS 459.015(2)(c)(C)(i)  
6 (preference for recycling pathways that displace more impactful materials) and ORS  
7 459.015(2)(c)(C)(ii) (preference for recycling pathways that best preserve value and molecular  
8 structure), DEQ may identify the environmentally preferable option among pathways under  
9 consideration.

10 **Statutory/Other Authority:** ORS 459A.975 and 468.020  
11 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

12 **OAR 340-090-0680**

13 **Producer Responsibility Organization Coordination**

14 (1) Interim coordination.

15 (a) For the initial program period, if DEQ receives program plans from multiple prospective  
16 producer responsibility organizations, DEQ may appoint an interim coordinator to coordinate  
17 among the prospective producer responsibility organizations. The interim coordinator will  
18 develop an interim coordination plan that meets the criteria of section 2 of this rule. The interim  
19 coordinator will serve in its role until December 31, 2026, or until a coordination plan proposed  
20 by the producer responsibility organizations has been approved by DEQ, whichever comes  
21 sooner.

22 (b) From March 31, 2024, onward and prior to the approval by DEQ of a coordination plan  
23 developed by the producer responsibility organizations, DEQ may assign interim coordination  
24 tasks, including but not limited to those listed in sub-section (c)(A) of this rule, to a producer  
25 responsibility organization or to a willing applicant producer responsibility organization. When  
26 assigning tasks to a producer responsibility organization DEQ will consider the following criteria  
27 during the program plan review:

28 (A) The qualifications of the producer responsibility organization;

29 (B) The producer responsibility organization’s access to financial resources;

30 (C) The initial producer membership of the producer responsibility organization; and

31 (D) The quality of the program plan submitted by the producer responsibility organization.

32 (c) DEQ may assign interim coordination tasks to approved producer responsibility  
33 organizations, or to willing applicant producer responsibility organizations. Approved producer  
34 responsibility organizations must begin the interim coordination tasks upon DEQ assigning the  
35 task. The tasks required by this subsection include the following:

- 1 (A) Setting up single accounting point of contact and invoice processing system for required  
2 producer responsibility organization compensation payments, including:
- 3 (i) Payment of contamination management fees (ORS 459A.920) and processor commodity risk  
4 fees (ORS 459A.923) to commingled recycling processing facilities;
- 5 (ii) Compensation to (and associated negotiation with) local governments for service expansion  
6 on the basis of the needs assessment (ORS 459A.890(5) and (8)).
- 7 (iii) Compensation to local governments for expenses besides service expansion (ORS 459A.890  
8 not including subsection (5)); and
- 9 (iv) Compensation to existing depots for service expansion to accommodate products on the  
10 producer responsibility organization depot list (ORS 459A.896(1)(a)).
- 11 (B) Setting up a system to reconcile expenses amongst producer responsibility organizations, in  
12 proportion to modified market share as required by OAR 340-090-0700(2).
- 13 (C) Establishing a depot collection system (per ORS 459A.896(1)) that meets collection targets,  
14 convenience standards and performance standards established by the Environmental Quality  
15 Commission.
- 16 (D) Developing and issuing educational materials that promote the uniform statewide collection  
17 list and other requirements pursuant to ORS 459A.893.
- 18 (d) The interim coordinator will conduct the following tasks in consultation with DEQ and the  
19 producer responsibility organizations:
- 20 (A) Calculate the modified market share of each producer responsibility organization as required  
21 by OAR 340-090-0700(3).
- 22 (B) Define the standard product categorization to be used in producer responsibility organization  
23 membership fee structures.
- 24 (e) The interim coordinator will develop an interim coordination plan meeting the requirements  
25 of section 2 of this rule. The interim coordinator will review the draft plan with all prospective  
26 producer responsibility organizations and with DEQ, and then produce an updated version for  
27 review and approval by DEQ. Once approved by DEQ, producer responsibility organizations  
28 must follow the interim plan until it is replaced with a final coordination plan.
- 29 (f) DEQ's costs in appointing and overseeing an interim coordinator are costs of administering  
30 the provisions ORS 459A.860 to 459A.975.
- 31 (2) Standards and requirements for coordination plans.
- 32 (a) A producer responsibility organization is responsible for the implementation of an approved  
33 coordination plan.

- 1 (b) A coordination plan must include:
- 2 (A) Identification of the producer responsibility organization coordinating body;
- 3 (B) A process for designating a new coordinating body and notifying DEQ in advance;
- 4 (C) A process for resolving disputes between producer responsibility organizations and between  
5 producer responsibility organizations and local governments and their service providers;
- 6 (D) A process by which a producer responsibility organization or multiple producer  
7 responsibility organizations will assume responsibilities to implement a coordination plan should  
8 the coordinating body be unable to implement the coordination plan;
- 9 (E) A process to address coordination in the event a producer responsibility organization ceases  
10 implementation of a producer responsibility program; and
- 11 (F) A plan for how the producer responsibility organizations will coordinate to ensure that their  
12 obligations under provisions ORS 459A.860 to 459A.975 are met.
- 13 (c) In reviewing a coordination plan submitted for approval, DEQ will consider whether the  
14 coordination plan will ensure:
- 15 (A) Achievement of the statewide plastics recycling goal established under ORS 459A.869(9),  
16 including development of combined plastic recycling rate projections across all producer  
17 responsibility organizations;
- 18 (B) Education that promotes the uniform statewide collection list as provided under ORS  
19 459A.893;
- 20 (C) A Single-point-of-contact accounting that provides timely funding, reimbursement, and  
21 payments required under ORS 459A.860 to 459A.975, including funding, reimbursement and  
22 payments related to ORS 459A.890, ORS 459A.896, ORS 459A.920, and 459A.923;
- 23 (D) Processes to allocate costs among producer responsibility organizations that are proportional  
24 to modified market share as required by OAR 340-090-0700(2);
- 25 (E) A consistent statewide system to ensure all Oregon residents can easily identify, understand,  
26 and access services provided through ORS 459A.860 to 975, including through consistent  
27 messaging and branding, and through a single website listing the services provided by all  
28 producer responsibility organizations under ORS 459A.896;
- 29 (F) Assurance that all covered products collected for recycling are delivered to responsible end  
30 markets and managed according to Oregon's materials management hierarchy, as required by  
31 ORS 459A.896(2);
- 32 (G) A single point of contact for communicating with the Recycling Council and DEQ, including  
33 Recycling Council recommendations and material lists;



- 1 (H) Establishment of a recycling depot system that meets collection targets, convenience  
2 standards, and performance standards established in OAR 340-090-0640, OAR 340-090-0650,  
3 and OAR 340-090-0660;
- 4 (I) A process for aggregating data submitted by producer responsibility organizations to calculate  
5 and publish modified market shares, identify and publish a list of large producers, and report  
6 market share data to DEQ; and
- 7 (J) A list of standard product categories that the producer responsibility organizations will use to  
8 establish their membership fees pursuant to ORS 459A.884.
- 9 (3) Rules establishing processes for submittal, review, approval or rejection, amendment, and  
10 revocation of coordination plans.
- 11 (a) Producer responsibility organizations must jointly submit a coordination plan to DEQ by  
12 February 1, 2026. Once approved, this plan will replace the interim coordination plan described  
13 in section 1 of this rule.
- 14 (b) DEQ will approve a coordination plan if it determines that the plan adequately meets all  
15 requirements of section 2 of this rule.
- 16 (c) The coordination plan review period of up to 270 days will consist of the following phases:
- 17 (A) DEQ shall approve, approve with conditions, or reject the submittal within 90 days of  
18 receiving it. If DEQ rejects the submittal, DEQ will provide comments that discuss the reasons  
19 for the rejection.
- 20 (B) If DEQ rejects the submittal, the producer responsibility organizations must jointly submit a  
21 revised plan no later than 60 days from the date of rejection. The revised submittal must address  
22 DEQ's comments on the initial submittal.
- 23 (C) DEQ shall approve, approve with conditions, or reject the revised submittal within 90 days  
24 of receiving it. If DEQ rejects the revised submittal, DEQ may do the following:
- 25 (i) Request that the producer responsibility organizations make further revisions to the plan;
- 26 (ii) Direct the producer responsibility organization to make specific revisions to the plan; or
- 27 (iii) Issue an order to direct implementation of an alternative coordination plan pursuant to  
28 section 4 of this rule.
- 29 (D) The producer responsibility organizations must jointly submit a second revised plan,  
30 pursuant to paragraph (c)(C)(i) or (ii) of this section, no later than 30 days from the date of  
31 second rejection.
- 32 (E) If the second revision is not timely or does not meet the coordination plan requirements of  
33 section 2 of this rule to DEQ's satisfaction, DEQ may direct specific revisions or issue an order  
34 to direct implementation of an alternative coordination plan pursuant to section 4 of this rule.

- 1 Failure to submit an approvable plan under paragraph D of this this subsection is a violation of  
2 these rules for purposes of enforcement. If DEQ directs revisions, the producer responsibility  
3 organizations must implement the revisions or request a hearing as provided in ORS chapter 183.
- 4 (d) Producer responsibility organizations may only change an approved coordination plan  
5 through plan amendments. Producer responsibility organizations must submit a coordination plan  
6 amendment to DEQ for approval at least 45 days before the change is to take effect. DEQ will  
7 approve or reject the amendment request within 45 days of receiving the request. DEQ may, for  
8 good cause, allow the producer responsibility organizations to submit an amendment request less  
9 than 45 days before the change is to take effect.
- 10 (e) DEQ's rejection of a coordination plan or plan amendment does not relieve the producer  
11 responsibility organizations or the coordination body from continuing to implement an approved  
12 coordination plan.
- 13 (f) In accordance with the applicable provisions of ORS chapter 183 relating to contested case  
14 proceedings, DEQ may issue an order to suspend, amend, or revoke a coordination plan in whole  
15 or in part if it determines that implementation of the coordination plan would:
- 16 (A) Present a risk to the environment or public health, or
- 17 (B) Have a material impact on the ability of a producer responsibility organization to implement  
18 its producer responsibility program plan in compliance with ORS 459A.860 to 459A.975.
- 19 (4) DEQ issuance of an order requiring a coordination plan.
- 20 (a) If no coordination plan is submitted within the timelines specified in section 3 of this rule, or  
21 if DEQ rejects a revised coordination plan pursuant to section 3 of this rule, DEQ may require  
22 the producer responsibility organizations to implement a coordination plan by order.
- 23 (b) The order will provide a start date and include any requirements DEQ determines are  
24 necessary to implement ORS 459A.860 to 459A.975 and related rules. The order may direct a  
25 producer responsibility organization to undertake the role of coordinating body and coordinate  
26 the implementation of the order and require that all other producer responsibility organizations  
27 collaborate with the coordinating body on implementation of the plan.
- 28 (c) Failure to adequately implement or comply with an order issued under this section is a  
29 violation of these rules.
- 30 (d) Within 20 days of the issuance of an order under this section a producer responsibility  
31 organization may request a hearing as provided in ORS chapter 183 . If a producer responsibility  
32 organization requests such a hearing under ORS chapter 183 the producer responsibility  
33 organizations shall continue to implement the order pending the outcome of legal proceedings.
- 34 (5) Coordination rules for the entry of new producer responsibility organizations.
- 35 (a) If a new producer responsibility organization enters the program in 2026 or later, the  
36 approved producer responsibility organizations coordination plan must be updated by plan

1 amendment. If no producer responsibility organization coordination plan has been approved by  
2 DEQ, one must be submitted and finalized within one year, subject to the review process  
3 outlined in rule OAR 340-090-0680(3). The timelines and procedures provided in section 1 for  
4 interim coordination will apply to a new producer responsibility organization before 2026.

5 (b) If an updated producer responsibility coordination plan is not approved within the one year  
6 DEQ may require the implementation of a coordination plan by order pursuant to section 4 of  
7 this rule.

8 (c) During the plan development and review phase under subsection (a), DEQ may revoke the  
9 existing coordination plan and reinstate interim coordination pursuant to section 1.

10 **Statutory/Other Authority:** ORS 459A.975 and 468.020

11 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

12 **OAR 340-090-0690**

13 **Producer Responsibility Organization Fees**

14 • (1) Program Plan Review Fee. Each producer responsibility organization that submits a plan  
15 under ORS 459A.875 will pay a fee of \$150,000 for DEQ's review of the plan. A producer  
16 responsibility organization will pay the fee when it submits the plan to DEQ. A plan will not be  
17 considered submitted to DEQ until the fee is paid.

18 (2) Annual Administration Fee. DEQ will assess an annual administration fee each calendar year  
19 in the amount of \$4,000,000 for the first four years of the program (2025-2028) and \$3,000,000  
20 for all subsequent years of the program.

21 (a) DEQ will invoice and a producer responsibility organization must pay the annual  
22 administration fee as follows:

23 (A) In the first program year (covering 2025) DEQ will send a producer responsibility  
24 organization a provisional invoice on or before September 1, 2024. DEQ will send a producer  
25 responsibility organization a final invoice upon completion of the producer responsibility  
26 program plan approval process under ORS 459A.878. A producer responsibility organization  
27 will pay the first program year's fee within 30-days of DEQ sending it a final invoice.

28 (B) In each year after the first program year DEQ will invoice a producer responsibility  
29 organization on or before September 1 of the proceeding program year for payment within 30-  
30 days of invoicing.

31 (b) DEQ may at its discretion reduce the fee in a given year if it determines that the full amount  
32 is not required to pay the costs of administering, implementing and enforcing the provisions of  
33 ORS 459A.860 to 459A.975 in that year.

34 (c) If DEQ has approved only one producer responsibility organization plan under ORS  
35 459A.878 for a given year that producer responsibility organization will pay the entirety of the  
36 annual administration fee.

1 (d) If DEQ has approved more than one producer responsibility organization plan under ORS  
2 459A.878 for a given year the annual administration fee will be divided among the producer  
3 responsibility organizations as follows:

4 (A) In the first program year the producer responsibility organizations will pay to DEQ equal  
5 shares of the annual administration fee. On or before September 1, 2025, DEQ will notify the  
6 producer responsibility organizations of the interim modified market share calculations pursuant  
7 to OAR 340-090-0700(3). The producer responsibility organizations will reconcile payment with  
8 each other such that each producer responsibility organization pays a total amount of the annual  
9 administration fee that is proportional to its modified market share.

10 (B) In each year after the first program year the fee will be divided between the producer  
11 responsibility organizations in proportion to their modified market share as determined by OAR  
12 340-090-0700(2).

13 **Statutory/Other Authority:** ORS 459A.975 and 468.020

14 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

15 **OAR 340-090-0700**

16 **Market Share**

17 Market share as used in ORS 459A.860 to 968 and related rules is a producer's percentage of all  
18 covered products sold in or into this state, as calculated in accordance with this rule.

19 (1) Methods for Calculating Market Share. Market share will be calculated as follows:

20 (a) Market share will be denominated by the percentage of weight (mass) of covered product  
21 measured in kilograms.

22 (b) A producer's market share will be calculated by dividing the weight of all covered products  
23 sold or distributed by the producer in or into Oregon in a particular program year by the total  
24 weight of all covered products sold or distributed by all producers in or into Oregon in that year.

25 (c) A producer responsibility organization's market share will be calculated by dividing the  
26 summed weight of all covered products sold or distributed by all of the producer responsibility  
27 organization's member producers in or into Oregon in a particular program year by the total  
28 weight of all covered products sold or distributed by all producers in or into Oregon in that year.

29 (d) A producer must on an annual basis submit market data establishing the weight of covered  
30 products sold or distributed in or into Oregon to the producer responsibility organization to  
31 which it belongs. Producers must submit a description of their methodology for calculating  
32 covered product weight to the producer responsibility organization along with the data.  
33 Methodology used must be in accordance with applicable best practices. If estimated market data  
34 is submitted by a producer and better market data becomes available that demonstrates the  
35 estimates were not accurate, the producer must report corrections to the estimated data to the  
36 producer responsibility organization before the next annual reporting deadline.

1 (c) When submitting market data to DEQ in an annual report, a producer responsibility  
2 organization will submit the methodological justifications along with the corresponding data.

3 (2) Purpose of and Method for Calculating Modified Market Share. If DEQ approves more than  
4 one producer responsibility organization plan pursuant to ORS 459A.878, financial obligations  
5 of implementation of provisions ORS 459A.860 to 459A.975 will be allocated among the  
6 producer responsibility organizations by modified market share, as provided by this section.

7 (a) Modified market share will be denominated in percentage of financial burden measured in US  
8 dollars.

9 (b) A producer responsibility organization's modified market share will be calculated as follows:

10 (A) The material-specific unit factor, described in subsection c of this section, is multiplied by  
11 the total weight of covered products of each material sold or distributed in or into Oregon by  
12 each member producer;

13 (B) The results of paragraph A for each material and each member producer of the producer  
14 responsibility organizations are summed;

15 (C) the weight of all covered product of each material sold in or into Oregon in a given year is  
16 multiplied by the material-specific unit factors and the result for each material are summed;

17 (D) The result of paragraph B is divided by the result of paragraph C.

18 (E) The result of paragraph D is a producer responsibility organization's modified market share.

19 (c) The method and process for calculating material-specific unit factors for individual materials  
20 shall be included in any coordination plan approved by DEQ pursuant to OAR 340-090-0640.  
21 During the period of interim coordination pursuant to OAR 340-090-0640(1), DEQ will contract  
22 with an independent organization to develop an index of material-specific unit factors.

23 (3) Interim Reporting of Market Share. By August 1, 2025, a producer responsibility  
24 organization must report information that will be used to calculate "interim market share" and  
25 "interim modified market share" for the 2025 program year to DEQ. Interim market share is  
26 estimated market share for July 1 - December 31, 2025, calculated from estimates of the weight  
27 of covered product sold into Oregon by each member producer, organized by type of material.  
28 Interim modified market share is estimated modified market share for July 1 - December 31,  
29 2025, calculated from these same producer estimates. Pursuant to ORS 459A.869(12), a producer  
30 responsibility organization's minimum interim market share is 10%.

31 **Statutory/Other Authority:** ORS 459A.975 and 468.020

32 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

33 **OAR 340-090-0710**

34 **Proprietary and Confidential Information**

35 (1) For purposes of ORS 459A.860 to 975:

1 (a) “proprietary information” is information protected as a trade secret under the Uniform Trade  
2 Secrets Act.

3 (b) “confidential information” is any information, written or oral, which relates to the disclosing  
4 party’s business, products, processes, or services, including, but not limited to, information  
5 related to concepts, ideas, financial, accounting, computer programs, techniques, proposals,  
6 business plans, business strategy, geographic expansion strategy, products under development,  
7 clients (including names, addresses, and lists thereof), client requirements, forecasts, marketing,  
8 selling, and the documentation thereof.

9 (2) A party providing information to DEQ that it considers proprietary or **otherwise** confidential  
10 must, at the time it provides the information, specify that the information is proprietary or  
11 **confidential and otherwise** not subject to disclosure. The claim must be assigned to specific  
12 information and not a generalized statement.

13 (3) DEQ may require at any time that a claimant substantiate its claim that information is  
14 proprietary or confidential.

15 (4) Notwithstanding section 1 of this rule, the following information is not proprietary **or**  
16 **confidential** for purposes of ORS 459A.860 to 975:

17 (a) Information that is already publicly available and where any potential economic value is  
18 derived solely from compilation;

19 (b) The market shares of producer responsibility organizations;

20 (c) The list of the top 25 producers in Oregon by market share in alphabetical order, and

21 ~~(d) The list of end markets of Oregon’s waste including the business or person name; city, state,~~  
22 ~~region, and country; identity of the material received; and amount received, excluding the names~~  
23 ~~of the commingled recycling processing facilities where the waste originated.~~

24 (5) If necessary for the implementation or enforcement of ORS 459A.860 to 975, DEQ may  
25 bring proprietary **or confidential** information to the attention of a producer responsibility  
26 organization, provided that the producer responsibility organization agrees to treat the  
27 information in accordance with the limitations in statute and rule.

28 (6) Proprietary information may only be disclosed beyond subsection (5) above as provided  
29 under the Uniform Trade Secrets Act. Confidential information may only be disclosed beyond  
30 subsection (5) above after 10 years from the date the discloser originally provided the  
31 information to DEQ. If a third party requests proprietary or confidential information that has  
32 been provided to DEQ, DEQ will inform the disclosing party of the request and make the  
33 determination regarding disclosure. The decision of the DEQ will be subject to the provisions  
34 and process required by ORS 459A.875(2)(e).

35 **Statutory/Other Authority:** ORS 459A.975 and 468.020

36 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

1 **OAR 340-090-0720**

2 **Program Calendar**

3 (1) The first three-year producer responsibility program plan period will include the 2025, 2026,  
4 and 2027 calendar years. It will run from July 1, 2025 (or earlier in 2025, if stipulated in  
5 approved program plan) to December 31, 2027.

6 (2) Subsequent producer responsibility program plan periods will run for five-year increments  
7 beginning on January 1 and ending on December 31 (the first set of updated plans will be valid  
8 from a start date of January 1, 2028 through to an end date of December 31, 2032).

9 (3) Prospective new producer responsibility organizations may submit program plans on the  
10 same calendar as renewal applicants (180 days before the end of a program period) and may also  
11 submit plans at other times (for example, midstream in a program period) upon petitioning DEQ  
12 and receiving advance approval.

13 **Statutory/Other Authority:** ORS 459A.975 and 468.020

14 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

15 **OAR 340-090-0730**

16 **Producer responsibility organizations with less than 10 percent market share**

17 • (1) If DEQ determines that a producer responsibility organization's market share has fallen  
18 below the 10 percent threshold provided by ORS 459A.869(12), DEQ shall:

19 (a) Issue notification to the producer responsibility organization of the intent to revoke plan;

20 (b) Begin a 60-day review process, during which the producer responsibility organization may  
21 describe any actions it will undertake to exceed the 10 percent threshold;

22 (c) After the conclusion of the 60-day review period, issue either an order revoking the producer  
23 responsibility organization's program plan or a notification that the plan will not be revoked; and

24 (2) If DEQ revokes a plan under this rule the producer responsibility organization must notify its  
25 producer members. Producer responsibility organization members will have 60 days to transition  
26 to another producer responsibility organization.

27 (3) If DEQ notifies a producer responsibility organization that a plan will not be revoked,  
28 pursuant to subsection 1(c) of this rule, DEQ may include any of the actions described by the  
29 producer responsibility organization pursuant to subsection 1(b) of this rule as conditions on its  
30 decision not to revoke the plan.

31 (4) An order revoking a plan under this rule may be appealed as provided in ORS chapter 183.

32 **Statutory/Other Authority:** ORS 459A.975 and 468.020

33 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

34 **OAR 340-090-0740**

35 **Reporting for plastic goal**

1 To enable DEQ to assess progress toward the statewide plastic recycling goal, a producer  
2 responsibility organization's annual reporting of the weight of plastic packaging and food  
3 serveware sold in Oregon by member producers must use a product categorization that aligns  
4 with the uniform statewide collection list categorization of products, as required under ORS  
5 459A.887(2)(c).

6 **Statutory/Other Authority:** ORS 459A.975 and 468.020  
7 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

8 **OAR 340-090-0750**

9 **Program plan amendments and producer responsibility organization fees**

10 (1) A producer responsibility organization's routine, annual updating of base fee rate amounts to  
11 align with the most recent sales information received from member producers does not constitute  
12 a method change and will not require a program plan amendment.

13 (2) Changes to fee structure or method of calculating fees constitute a method change and will  
14 require a program plan amendment.

15 (3) A producer responsibility organization may request provisional approval of a plan  
16 amendment if it needs to implement a fee structure method change rapidly due to financial  
17 urgency. If such a request is made, DEQ will respond within 30 days . If provisional approval is  
18 granted, the producer responsibility organization may implement the fee schedule method change  
19 on a provisional basis while the process for final approval, pursuant to ORS 459A.878, is  
20 ongoing. If the plan amendment is ultimately not approved, the producer responsibility  
21 organization must correct its member accounts to reverse the provisional change.

22 **Statutory/Other Authority:** ORS 459A.975 and 468.020  
23 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

24 **OAR 340-090-0760**

25 **Producer responsibility organization membership fees**

26 A material is accepted by recycling collection programs in this state, for the purpose of ORS  
27 459A.884(3), only if it is designated by rule on the Local Government Recycling Acceptance  
28 List, pursuant to OAR 340-090-0630(2), or the Producer Responsibility Organization Recycling  
29 Acceptance List, pursuant to OAR 340-090-0630(3), or otherwise has been added to the Uniform  
30 Statewide Collection List by the mechanism provided for in ORS 459A.914(4)(b).

31 **Statutory/Other Authority:** ORS 459A.975 and 468.020  
32 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

33 **340-090-0770**

34 **Local Government Transportation Costs Reimbursement**

35 (1) A producer responsibility organization must pay the costs of transporting covered products  
36 from a recycling depot or recycling reload facility to a commingled recycling processing facility  
37 or a responsible end market as provided by ORS 459A.890(2) and this rule.



- 1 (2) Transportation costs must be based on the actual costs of managing and transporting covered  
2 products that must be shipped more than 50 miles.
- 3 (3) The 50-mile distance in section 2 of this rule and ORS 459A.890(2)(b)(E) is the shortest  
4 driving distance to the nearest commingled recycling processing facility or a responsible end  
5 market with capacity to accept the material and applies to covered products as stated in  
6 subsections (a) through (d) of this section.
- 7 (a) If the material is fully commingled, the distance measured is to the nearest commingled  
8 recycling processing facility with capacity to accept the material.
- 9 (b) If the material is collected separately (for example glass) or is not fully commingled and  
10 requires further sorting or processing before being received by a responsible end market, then the  
11 distance is measured to the nearest processing or sorting facility that will prepare the material  
12 and send it to a responsible end market.
- 13 (c) If the material is collected separately and in a condition that would allow it to be received  
14 directly by a responsible end market without additional processing, then the distance is measured  
15 to a responsible end market.
- 16 (d) If a separated material or a group of materials is initially taken to a commingled recycling  
17 processing facility or other processing facility and the material requires additional processing or  
18 sorting before it can be accepted by a responsible end market, then the distance is measured to  
19 the initial commingled recycling processing facility or other processing facility. The producer  
20 responsibility organization is not responsible under this rule for paying the transportation costs  
21 associated with the transport of material from the initial commingled recycling processing  
22 facility or other processing facility to additional processing facilities or a responsible end market.
- 23 (4) Costs to receive, consolidate, load and transport covered products include, but are not limited  
24 to, purchasing and maintaining equipment, signage, and other similar costs of operating the  
25 recycling depot or recycling reload facility not already covered under other sections of ORS  
26 459A.860 through ORS 459A.975.
- 27 (5) Transportation costs include administrative costs related to the activities described in ORS  
28 459A.890(2). Administrative costs include, but are not limited to, costs related to staffing and the  
29 hiring and managing of staff.
- 30 (6) Transportation costs do not include the proportion of a shipment of recyclable material that is  
31 not covered products, as provided by ORS 459A.890(2)(b)(C). Costs that are not eligible for  
32 payment under ORS 459A.890(2)(b)(C) will be determined as stated in subsections (a) through  
33 (c) of this section.
- 34 (a) Until completion of the study described in subsection (b) of this section, a producer  
35 responsibility organization will use data from the 2023 Oregon Solid Waste Characterization and  
36 Composition Study to determine the proportion of a shipment of recyclable material that is not  
37 covered products.

1 (b) Starting in 2027, and at least once every five years thereafter, a producer responsibility  
2 organization must fund a study to determine the proportion of collected recyclable material that  
3 is covered product and is eligible for transportation costs reimbursement. The study will include  
4 the following:

5 (A) The study will provide statewide averages for the proportion of covered material in  
6 commingled recyclable material, recyclable material that is collected separately and recyclable  
7 material that is not fully commingled. For the latter two categories the study may provide  
8 different averages for different materials as appropriate.

9 (B) Study protocols and timing must be included in the producer responsibility organization's  
10 program plan and will be approved as a part of plan approval under ORS 459A.878. If multiple  
11 producer responsibility organization program plans are approved by DEQ, the producer  
12 responsibility organizations' coordinating body will undertake one study and submit a joint study  
13 protocol to DEQ for approval in the manner provided by DEQ.

14 (C) Upon completion of a study, a producer responsibility organization, or coordinating body,  
15 will use the statewide averages from the study to determine the proportion of a shipment of  
16 recyclable material that is not covered products.

17 (c) If a local government, a local government's service provider or a producer responsibility  
18 organization believes that the local commingled recycling stream has a substantially different  
19 proportion of recyclable material that is not covered products compared to the statewide average,  
20 then a local government, a local government's service provider or a producer responsibility  
21 organization may, at their own expense, conduct a study to better determine the proportion of  
22 recyclable material that is not covered products in the local collected commingled recycling  
23 stream. The party conducting the study will provide the other parties and DEQ at least 30 days to  
24 comment on study methods. The dispute resolution process in the producer responsibility  
25 organization's approved program plan shall apply to any dispute between the producer  
26 responsibility organization, or a coordinating body, and the local government or local  
27 government's service provider regarding a study performed under this subsection. Upon  
28 completion of the study and subject to dispute resolution and DEQ concurrence, the averages  
29 determined in the study will be used by a producer responsibility organization, or a coordinating  
30 body, and the local government or local government's service provider that performed the study.

31 (7) Transportation costs include the cost to receive, consolidate, and load covered products. If a  
32 shipment of material contains both covered products and material that is not covered products,  
33 the cost a producer responsibility organization, or a coordinating body, must pay to receive,  
34 consolidate and load are the costs associated with the covered product. If such costs associated  
35 with the covered products cannot be separated from such costs associated with material that is  
36 not covered product and a producer responsibility organization and a local government or local  
37 government's service provider cannot otherwise agree on the payment of such costs, the  
38 producer responsibility organization, or coordinating body, will pay the total cost to receive,  
39 consolidate and load the material reduced by the estimated proportion of the material that is not  
40 covered product.

1 (8) For purposes of this rule, material is not fully commingled if a load of recyclable material  
2 intended to be transported to a commingled recycling processing facility contains some but not  
3 all the material listed on the Uniform Statewide Collection List.

4 **Statutory/Other Authority:** ORS 459A.975 and 468.020  
5 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

6 **OAR 340-090-0780**

7 **Method for Determining Payment of Transportation Costs**

8 (1) A producer responsibility organization must include in a program plan submitted under ORS  
9 459A.875 methods for calculating transportation costs.

10 (a) Methods may include rate schedules or zonal maps specific to locations and materials,  
11 periodic adjustments for fuel prices or other variable factors.

12 (b) Methods must account for proximity to an appropriate commingled recycling processing  
13 facility or responsible end market that has capacity to process or recycle the material and other  
14 factors that could affect transportation costs.

15 (c) Methods must include a voluntary option that allows service providers to transfer some or all  
16 transportation responsibilities to the producer responsibility organization or coordinating body.

17 (d) A producer responsibility organization must share a draft approach and seek feedback from  
18 local governments and local government service providers to develop the proposed methods.

19 (e) DEQ will consider feedback from local governments and local government service providers  
20 on the method proposed by the producer responsibility organization in determining whether to  
21 approve the method as part of the producer responsibility plan under ORS 459A.878. DEQ may  
22 require a producer responsibility organization to amend an approved program plan at any time if  
23 the department determines that the approved methods are not adequate.

24 (f) A producer responsibility organization must implement the method for paying transportation  
25 costs approved as part of its program plan.

26 (2) A producer responsibility organization, or a coordinating body, a local government or  
27 designated local government's service provider and DEQ may agree in writing to use an  
28 alternative method of calculating transportation costs that is not approved as part of the program  
29 plan, provided that the alternative method complies with ORS 459A.890(2)(c) and any other  
30 applicable requirements.

31 **Statutory/Other Authority:** ORS 459A.975 and 468.020  
32 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

33 **OAR 340-090-0790**

34 **Expansion of Service**

- 1 (1) The program plan must describe how the producer responsibility organization will implement  
2 the requirements of ORS 459A.890(5), this section and OAR 340-090-0800. The producer  
3 responsibility plan must include:
- 4 (a) A schedule for implementing collection program expansions and improvements throughout  
5 the state;
- 6 (b) For the initial program plan period only (July 2025 through December 2027), a plan for how  
7 the producer responsibility organization will implement expansion of collection services  
8 according to the following order of priority:
- 9 (A) Highest priority shall be given to local governments that are not, or will not be, able to  
10 provide the opportunity to recycle as stated in ORS 459A.005 and ORS 459A.007, in the absence  
11 of producer responsibility organization funding.
- 12 (B) Existing recycling depots to provide for the collection of any materials that were formerly  
13 collected on-route by the local government or a local government's service provider, as needed  
14 to ensure continuation of recycling opportunities.
- 15 (C) Existing recycling depots to provide for the collection of any materials that are not currently  
16 or were not formerly collected on-route by the local government or the local government's  
17 service provider.
- 18 (D) Local governments with populations less than 4,000, according to the Portland State  
19 University Population Research Center's most recent Population Estimate Report, or such other  
20 estimate approved by the department, regardless of whether they are looking to add new service  
21 or expand existing services.
- 22 (E) Local governments of any size that are looking to add new on-route or recycling depot  
23 service.
- 24 (F) All other local governments that are looking to expand existing on-route collection, recycling  
25 depots or both, in order of ascending population.
- 26 (c) For program plan periods after the initial period described in subsection (b) of this section,  
27 DEQ may provide guidance to a producer responsibility organization, or coordinating body, for  
28 the inclusion of any priority for implementing the expansion of collection service in a renewed  
29 program plan.
- 30 (d) A method for determining advanced funding or reimbursement amounts under ORS  
31 459A.890(5), consistent with OAR 340-090-0810.
- 32 (e) An estimate of the total amount of funds that will be made available to each local government  
33 included in DEQ's needs assessment under ORS 459A.890(5) per year; and
- 34 (f) Sample forms with details to be included in reimbursement or advanced funding requests  
35 from local governments or a local government's service provider authorized by a local  
36 government to provide services under ORS 459A.890.

1 (2) A producer responsibility organization must submit an amendment to a producer  
2 responsibility program plan according to ORS 459A.881 when responding to a new needs  
3 assessment provided by DEQ according to ORS 459A.890(8) and OAR 340-090-0800

4 **Statutory/Other Authority:** ORS 459A.975 and 468.020

5 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

6 **OAR 340-090-0800**

7 **Expansion of Service Funding and Needs Assessment**

8 (1) Costs associated with the expansion and provision of recycling collection service for covered  
9 products, as provided by ORS 459A.890(5) are eligible costs for funding or reimbursement by a  
10 producer responsibility organization.

11 (a) A producer responsibility organization must provide funding for activities requested by local  
12 governments through the periodic needs assessment including, but not limited to:

13 (A) Adding new services,

14 (B) Expanding services, or

15 (C) Adding or expanding recycling depots as needed to provide convenient recycling  
16 opportunities.

17 (b) A producer responsibility organization, or coordinating body, will not provide funding for  
18 expansion that is inconsistent with the finalized terms of expansion between the producer  
19 responsibility organization, or coordinating body, and the local government or a local  
20 government's service provider.

21 (c) Eligible costs under ORS 459A.890(5) ~~and~~ include but are not limited to:

22 (A) Start-up costs for on-route programs including but not limited to:

23 (i) Trucks,

24 (ii) Collection containers, roll carts, or both,

25 (iii) On-board contamination monitoring equipment and software,

26 (iv) New program promotional literature,

27 (v) The process of hiring and training staff,

28 (vi) Staff safety equipment, and

29 (vii) Recycling reload facilities for reloading recyclables, including but not limited to any  
30 equipment necessary for moving, compacting, baling and loading recyclables for shipment for  
31 the recycling reload facility, provided that the facility is necessary, and no other facility is  
32 available or existing facilities are inadequate.

- 1 (B) Start-up and operational costs for recycling depots, including but not limited to:
- 2 (i) Land acquisition,
- 3 (ii) Site preparation or other start-up costs,
- 4 (iii) Collection containers,
- 5 (iv) Signage,
- 6 (v) On-site monitoring equipment,
- 7 (vi) Equipment to move, compact, bale and load recyclables for shipment,
- 8 (vii) Hiring and training staff,
- 9 (viii) Staff safety equipment, and
- 10 (ix) Operational costs,
- 11 (2) DEQ must conduct statewide needs assessments periodically in accordance with ORS  
12 459A.890(8)(a).
- 13 (a) Local governments that request services through the periodic needs assessment will commit  
14 to providing additional services with an agreement with the producer responsibility organization,  
15 or coordinating body, after working with the producer responsibility organization, or  
16 coordinating body, to determine the details to be implemented according to 459A.890 (5)(b).
- 17 (b) Expansion of service commitments will be implemented by the local government and the  
18 local government's service providers, with the producer responsibility organization, or  
19 coordinating body, providing financial and educational assistance to the committed effort during  
20 the first approved producer responsibility program plan.
- 21 (c) DEQ may conduct up to two local government needs assessments for the producer  
22 responsibility organization, or coordinating body, to respond to for each subsequent program  
23 plan according to ORS 459A.875.
- 24 (d) For expansion that is to occur at the beginning of a program plan subsequent to the initial  
25 program plan, DEQ will submit information to the producer responsibility organization, or  
26 coordinating body, from a local government needs assessment 18 months before the current  
27 program plan is due to expire.
- 28 (e) For expansion that is to occur mid-program plan, DEQ may submit information from a local  
29 government needs assessment at least four years before the current program plan is due to expire.
- 30 (f) When DEQ sends a local government needs assessment report to a producer responsibility  
31 organization, or coordinating body, within four years of the current program plan expiration, the  
32 producer responsibility organization, or coordinating body, must submit a program plan

1 amendment to DEQ to address the service expansion interest from the needs assessment within  
2 180 days.

3 (A) Upon completion of a request for expansion of service, any unused advanced funding  
4 provided by a producer responsibility organization, or coordinating body, to a local government  
5 or local government's service provider, for the purposes of funding that expansion request, must  
6 be returned to the producer responsibility organization, or coordinating body, within 60 days of  
7 completion of the expansion request. An invoice detailing how the local government or local  
8 government's service provider used the advanced funding must also be provided.

9 (B) Upon request of DEQ, a local government or a local government's service provider must  
10 demonstrate to DEQ's satisfaction that the funding a local government or a local government's  
11 service provider received was used for its intended purpose.

12 • (4) A local government must identify to DEQ service providers that are authorized to receive  
13 advanced funding or reimbursement directly, as described in this rule, from the producer  
14 responsibility organization, or coordinating body, via a process to be determined by the  
15 department. If for any reason a service provider to the local government changes, the local  
16 government is responsible for informing DEQ of that change.

17 (5) A local government and service providers authorized by a local government to provide  
18 services, that has received funds for expansion or improvements to recycling collection under  
19 ORS 459A.890 and this rule must report to the producer responsibility organization, or  
20 coordinating body, when the expansion or improvements have been fully implemented. A local  
21 government or a local government's service provider authorized by a local government to  
22 provide services must also report the status of implementation to the producer responsibility  
23 organization, or coordinating body, on an annual basis for any funded collection program that  
24 has not been fully implemented, so that the producer responsibility organization, or coordinating  
25 body, may include that information in the annual report required under ORS 459A.887.

26 **Statutory/Other Authority:** ORS 459A.975 and 468.020

27 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

28 **OAR-340-090-0810**

29 **Local Government Compensation and Invoicing**

30 (1) A local government, a local government's service provider, or other person authorized by a  
31 local government to receive payment, may request advanced funding or reimbursement of costs  
32 pursuant to ORS 459A.890.

33 (a) A producer responsibility organization must include in its program plan the following:

34 (A) A method for determining advanced funding or reimbursement amounts under ORS  
35 459A.890(5).

36 (B) A description of the process a local government, a local government service provider or other  
37 persons authorized by a local government to receive payment must follow to invoice the  
38 producer responsibility organization for reimbursement of costs or advanced funding. The

1 information provided may include sample forms for reimbursement or advanced funding  
2 requests.

3 (b) A local government, a local government’s service provider, or other person authorized by a  
4 local government to receive payment may not submit a reimbursement invoice to a producer  
5 responsibility organization, or coordinating body, more than once per month.

6 (c) A local government’s service provider, or other person authorized by a local government to  
7 receive payment, may submit an invoice jointly on behalf of multiple local governments. The  
8 local government-authorized entity submitting the joint invoice must list all jurisdictions  
9 represented and provide documentation from each jurisdiction that approves of the  
10 reimbursement request or otherwise authorizes them to seek funding on the local government’s  
11 behalf.

12 (d) If a local government, a local government’s service provider, or other person authorized by a  
13 local government to receive payment, receives advanced funding pursuant to ORS 459A.890, the  
14 local government must return to the producer responsibility organization that provided the funds  
15 any funds not used for the purposes for which they were provided within 60 days of completion  
16 of the project.

17 (e) If a local government, a local government’s service provider, or other person authorized by a  
18 local government to receive payment submits an invoice to the PRO for payment, the PRO must  
19 pay the invoice within 60 days of receipt of the invoice.

20 (2) For the purpose of determining the population of a local government pursuant to ORS  
21 459A.890(4)(b), a local government may rely on the Portland State University Population  
22 Research Center’s most recent, certified Population Estimate Report, or such other estimate  
23 approved by the department. A local government, a local government’s service provider, or other  
24 person authorized by a local government to receive payment, must use the most recent  
25 population estimate at the time of its reimbursement request.

26 **Statutory/Other Authority:** ORS 459A.975 and 468.020

27 **Statutes/Other Implemented:** ORS 459A.860 - 459A.975

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