



State of Oregon Department of Environmental Quality

Rule Concept: Transportation Costs Reimbursement

Plastic Pollution and Recycling Modernization Act (SB 582, 2021) Rulemaking Advisory Committee Meeting 3 of 5, Rulemaking 1

Oct. 27, 2022

Background

This memo provides background information for the Rulemaking Advisory Committee (RAC) on the topic of transportation costs reimbursement. The Plastic Pollution and Recycling Modernization Act (“Act”) requires a Producer Responsibility Organization also known as/or a PRO to fund in advance or reimburse a local government or the local government’s service provider for the cost of transporting covered products from a recycling depot or recycling reload facility to a commingled recycling processing facility or responsible end market.

Eligible transportation costs include receiving, consolidating, loading, and transporting covered products. Per ORS 459A.890(2), the Environmental Quality Commission (the commission) is required by rule to establish methods for determining funding or reimbursement amounts, and eligible costs for transporting covered products.

Concepts for discussion at Nov. 9, 2022 RAC meeting

I. Rule concept for discussion: Reimbursement for transporting covered products

1. Distance

Per ORS 459A.890(2)(b)(E), local governments or their service providers are eligible for reimbursement of costs associated with transporting covered products from a recycling depot or recycling reload facility that’s 50 miles or greater in distance from a commingled recycling processing facility or responsible end market with capacity to accept the material. For the purposes of these proposed rules, “capacity” includes a willingness to accept the material.

The distance of 50 miles is measured as the shortest driving distance and applies to materials as follows.

- a) If the material is fully commingled, the distance measured is to the nearest commingled recycling processing facility.
- b) If the material is collected separately or is not fully commingled and requires further sorting or processing before being received by a responsible end market, then the distance is measured to the nearest processing or sorting facility that will prepare the material and send it to a responsible end market.
- c) If the material is collected separately in a condition that it can be received directly by a responsible end market without additional processing, then the distance is measured to a responsible end market.

If covered products are shipped to a commingled recycling processing facility or responsible end market that is further than the nearest facility with capacity to accept and process the material, then reimbursement of transportation costs shall not exceed what the cost would be to ship the material to the nearest facility with capacity.

2. Portion of a load

Covered materials are the only portion of a load eligible for transportation costs paid by the PRO. During the initial program start-up period, data from DEQ's 2023 Waste Composition Study will be used to determine eligible costs for fully commingled material.

- a. Starting in 2027, and at least once every five years thereafter, the PRO shall fund a study to update information on the portion of collected commingled material that is covered product and is eligible for transportation reimbursement. Study protocols and timing must be included in the PRO program plan. DEQ and the Oregon Recycling System Advisory Council will review, and DEQ will approve. For separated material or partially commingled material, the depot or reload operator and the PRO shall attempt to reach agreement on the portion of the load or material received that is covered product.
- b. If a local government or the PRO believes that the local commingled recycling has a substantially different proportion of eligible covered products compared to the statewide average, either party, at their own expense, may conduct a study to determine the percentage of covered product in the local collected commingled recycling. The party conducting the study will provide the other party and DEQ with at least 30 days to comment on study methods.
- c. If the load is mixed with non-covered materials, the funded amount shall be reduced by the percentage of material shipped that is not a covered product. If it is not practical to isolate the costs directly related to the management and transport of just the covered material, PRO funding may be based on the portion of covered materials handled by the depot or reload facility. This includes considering materials handled by the depot or reload facility that are not covered products, such as large scrap metal and used motor oil.

3. Processing

If separated material or a group of materials must be further processed or sorted before being accepted by a responsible end market, and the nearest applicable processor or commingled recycling processing facility is more than 50 miles from the depot or reload facility, then the PRO must pay the cost to transport the covered product to that initial processor or sorting facility, but not to pay the subsequent cost of transporting the material from that processor or sorting facility to the responsible end market.

4. Actual costs

Costs shall be based on the actual costs of managing and transporting covered products that must be shipped more than 50 miles to the nearest eligible location.

II. Rule concept for discussion: Eligible Costs

1. Eligible activities

Eligible costs for receiving, consolidating, and loading covered materials include: purchasing and maintaining equipment, signage, and other similar costs of running and maintaining the

recycling depot or recycling reload facility not already covered under other sections of the Act.

Administrative costs eligible for reimbursement include, but are not limited to, staffing and hiring and managing staff.

2. Eligible materials

Eligible costs shall be based on the costs for proportion of material that is both a covered material and that must be shipped more than 50 miles to the nearest applicable commingled recycling processing facility or responsible end market.

3. Method of calculating costs

The PRO and the local government or local government's service provider shall reach an agreement on the method of calculating transportation costs. Methods may include rate schedules or zonal maps specific to locations and materials, periodic adjustments for fuel prices or other variable factors, reimbursement of actual third-party transportation costs, provision of transportation directly by the PRO, or other similar methods. The PRO shall propose available methods in its program plan, but other methods not in the plan could be used if agreed upon by the PRO and the local government or local government's service provider.

4. Dispute resolution

If the affected parties cannot come to a decision on eligible costs, they shall use the dispute resolution protocol outlined in the PRO's approved program plan.

III. Rule Concept for Discussion: Other

DEQ seeks feedback from Rulemaking Advisory Committee on the following:

1. Minimum weight

- Should there be specifications on the minimum weight of materials per truckload to allow efficient, cost-effective transport? If so, what might those specifications be, and how might payment amounts vary if loads are underweight? Different standards might apply for transfer of materials from a recycling depot to a reload facility as opposed to transfer from a recycling reload facility to a commingled recycling processing facility or responsible end market.

Alternative formats

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El DEQ puede proporcionar los documentos en un formato alternativo o en un idioma distinto al inglés si así lo solicita. Llame al DEQ al 800-452-4011 o envíe un correo electrónico a deqinfo@deq.oregon.gov.

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