



State of Oregon Department of Environmental Quality

Rule Concepts: 1 - Fees

Plastic Pollution and Recycling Modernization Act (SB 582, 2001)
Rulemaking Advisory Committee Meeting 1 of 5, Rulemaking 1

Background

The Plastic Pollution and Recycling Modernization Act (“Act”) requires DEQ to establish a plan review fee and annual fees reasonably calculated to cover DEQ’s administrative costs to be paid by the Producer Responsibility Organizations. Rule concepts for these two fees, including fee amounts, are listed below. (Not included are concepts related to the waste prevention and reuse fee, which will be discussed in Rulemaking 2).

Concepts for discussion at July 20, 2022 RAC meeting

DEQ seeks feedback from Rulemaking Advisory Committee members on the following concepts:

Rule Concept: Program Plan Review Fee

1. The program plan review fee in the amount of \$150,000* is for DEQ’s review of a program plan.
2. This fee is due from each PRO with the initial submission of their program plan (March 31, 2024 deadline; subsequent plans in later years).
3. The fee covers: staff costs associated with review of a PRO program plan.

Rule Concept: Annual Fee

1. The annual fee covers DEQ’s expenses associated with the ongoing costs of administering, implementing, and enforcing provisions ORS 459A.860 to 459A.975. It amounts to \$4,000,000 per year for the first four years of implementation (2025-2028), and then \$3,000,000 subsequently.*
2. Annual fees will be assessed for each calendar year.
3. The fee for the next year will be invoiced on or before September 1 of the previous year, with a 30-day period to submit payment.
4. In the case of a single approved PRO, that PRO will pay the entire fee. In the case of multiple PROs, the fee will be divided among the PROs in proportion to their market share.
5. Provisional invoice(s) for the first year’s fee (covering 2025) will be sent out on or before September 1, 2024. A PRO will not need to pay this first year’s fee until receiving a final version of the invoice, which DEQ will send upon completion of the PRO program plan approval process. The first fee, unlike subsequent fees, will be divided in equal shares among multiple PROs, if multiple PRO plans are approved. In the fall of 2025, once interim market shares have been

* Numbers are preliminary and may change subject to cash flow modeling undertaken in development of the draft fiscal impact statement, for which DEQ will seek the Rulemaking Advisory Committee’s consultation in meeting #5 in February 2023, prior to its publication for public comment in May 2023.

calculated, the PROs will receive notice from DEQ of the need to reconcile amongst themselves the fee amounts previously paid so that they are proportional to market share.

6. The fee covers: DEQ's ongoing operating costs and its start-up costs incurred in the four years prior to July 1, 2025.
7. The first four annual fees are higher than the later annual fees, as they encompass reimbursement of most (over 90%) of DEQ's start-up costs to implement the Plastic Pollution and Recycling Modernization Act:
 - i. \$4,000,000* – annual fee for the first four years
 - ii. \$3,000,000* – annual fee from year five onward
 - iii. Annual fees will not exceed this amount and DEQ may adjust the fee downward in a given year to reflect actual operating costs.

Applicable statute regarding DEQ fees: ORS 459A.938.

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