



Oregon Department of Environmental Quality

## **Rule Concept: Living wage and supportive benefits (updated)**

**Plastic Pollution and Recycling Modernization Act (SB 582, 2021)**  
Rulemaking Advisory Committee Meeting 3, Rulemaking 2

### **Background**

This updated rule concept provides background information and a revised proposed approach for living wages and supportive benefits for workers at commingled recycling processing facilities. The initial draft [rule concept](#) was presented at the Rulemaking Advisory Committee meeting on July 13, 2023.

Effective Jan. 1, 2027, ORS 459A.905(2)(c) prohibits local governments from sending their commingled recyclables to processing facilities unless the “processor provides workers at the facility with a living wage and supportive benefits, as defined by rule by the Environmental Quality Commission”. This updated draft rule concept proposes definitions for the terms “workers at the facility”, “living wage” and “supportive benefits” and proposes what data sources or other information may be used to determine the parameters of these terms.

DEQ is requesting input from members of the Rulemaking Advisory Committee on the identified options, including any information that would support alternatives or other definitions.

### **What changed?**

DEQ is proposing updates to some elements of the draft rule concept. Those updates, made in response to input received at and after the July 2023 committee meeting, are:

- Changes to the definition of “workers” to focus on the tasks and types of work performed.
- Changes to the household composition elements to be used to assess living wage, from 2 working adults and 2 dependents to a calculated weighted average based on Oregon’s Census information.
- Changes to the list of supportive benefits that would be required to be provided to workers, with additional detail for some of the proposed supportive benefits.

### **What has not changed?**

DEQ is using the same proposed definitions and parameters as presented in July 2023 for some elements of the updated draft rule concept. Those include:

- Retaining the proposed definition for the term “living wage”.
- Retaining the MIT Living Wage Calculator as the proposed primary data source for determining living wage.
- Retaining the commingled recycling processing facility’s physical address information to apply the county-based location parameter for the MIT Living Wage Calculator inputs.

The proposed updated rule concept is detailed below, integrating changes as noted above.

## **I. Defining “workers at the facility”**

While ORS 459A.863 includes definitions for commingled recycling processing facilities, the “facility” referenced in this term does not define “workers”. DEQ has no other established definition for “worker” in other administrative rules that could serve as precedent and proposes to define it in rule as, “[a] person whose primary work tasks are directly associated with the mechanical or physical activities of processing materials at a commingled recycling processing facility.”

This definition includes any person receiving compensation in exchange for any hours scheduled or worked, no matter if the worker is employed directly by the facility, contracted or temporarily employed through a third-party entity, or is paid hourly wages or a salary.

## **II. Defining “living wage”**

As noted above, DEQ does not propose any changes to this definition. It was first shared in July, clarifying in rule that “living wage” means a wage one full-time worker must earn on an hourly basis to help cover the cost of their household’s minimum basic needs where they live without additional income or subsidization. This definition is the one used by the proposed data source, discussed below, and closely aligns with the common definitions of living wage used in a variety of policy and regulatory settings.

## **III. Establishing the data source(s) and inputs to be used for living wage**

As noted above, DEQ does not propose changes to the previous data source shared in July. DEQ proposes that a facility use the [MIT Living Wage Calculator](#) to calculate the appropriate living wage.

The MIT Living Wage Calculator evaluates factors including a household’s **location**, and **household composition** such as number of working adults and number of dependents to identify the specific dollar amount that would be a living wage. DEQ invites advisory committee feedback regarding defining these factors in rule.

### **A. Location**

The cost of covering basic needs varies by geography resulting in similar variation to the living wage. The MIT Living Wage Calculator also provides an estimate of the living wage based on using a statewide, Metropolitan Statistical Area or county-specific location. Currently, there are 12 commingled recycling processing facilities that receive materials from Oregon’s local governments: one in northern California, one in Vancouver, Washington, and 10 in Oregon. These facilities are distributed over five Metropolitan Statistical Areas across two states, and the Oregon-located facilities are distributed through six counties: Clackamas, Klamath, Lane, Marion, Multnomah and Washington.

**DEQ proposes to use the facility’s physical address, by county, as the designation for location.** That proposal reflects the most localized costs of living for any worker. It also ensures that any future facilities subject to these rules would not have to be located in a Metropolitan Statistical Area, which is a designation for urban population centers. DEQ acknowledges a future state of the recycling system in which facilities may be located outside of major urbanized population centers, and establishing the rules based on county, may simplify compliance for local governments and the regulated facilities.

### **B. Household Composition**

Living wage calculations also consider the household composition in determining total wage. The MIT Living Wage Calculator uses the term “children” instead of “dependents,” but, in this

background documentation, DEQ affirmatively uses the term dependents to acknowledge that a person may financially support an elder, spouse or other non-child member of their family through their wages.<sup>1</sup> The MIT Living Wage Calculator provides for several options, as follows.

Options for number of adults:

- One adult
- Two adults (one working)
- Two adults (both working)

Options for number of dependents:

- No dependents
- One dependent
- Two dependents
- Three dependents

**DEQ proposes to use a calculated weighted average, as described below, to inform the household composition element of the living wage calculation.**

$$\text{Calculated hourly living wage} = 0.35 * (\text{County-specific wage for 1 worker/0 dependents}) + 0.65 * (\text{County-specific wage for 2 workers/2 dependents})$$

This calculation reflects DEQ's review and incorporation of Oregon Census data. Using a calculated value allows DEQ to apply a household composition figure more representative of Oregon's working households than the other defined inputs of the MIT Living Wage Calculator while still providing a consistent formula that is responsive to the costs of living based on location.

The table, below, shows the applied calculation, in comparison to the 1/0 and 2/2 columns, for the 12 commingled recycling processing facilities currently receiving materials from Oregon's communities.

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<sup>1</sup> The developers of the calculator acknowledged verbally that costs are not equivalent for child and dependent care, but the use of childcare-related costs may serve as a proxy for any dependent care.

Facility Location: State (County)	Hourly living wage:	Hourly living wage: Calculated per updated proposal	Hourly living wage:
	1 worker, 0 dependents		2 workers, 2 dependents
1 – Oregon (Washington)	\$21.85	<b>\$25.91</b>	\$28.09
2 – Oregon (Multnomah)	\$21.85	<b>\$25.91</b>	\$28.09
3 – Oregon (Multnomah)	\$21.85	<b>\$25.91</b>	\$28.09
4 – Oregon (Clackamas)	\$21.85	<b>\$25.91</b>	\$28.09
5 – Oregon (Multnomah)	\$21.85	<b>\$25.91</b>	\$28.09
6 – Oregon (Clackamas)	\$21.85	<b>\$25.91</b>	\$28.09
7 – Oregon (Marion)	\$17.56	<b>\$22.28</b>	\$24.82
8 – Oregon (Lane)	\$17.46	<b>\$22.94</b>	\$25.89
9 – Oregon (Lane)	\$17.46	<b>\$22.94</b>	\$25.89
10 – Oregon (Klamath)	\$15.75	<b>\$21.19</b>	\$24.12
11 – California (Humboldt)	\$16.51	<b>\$22.52</b>	\$25.76
12 – Washington (Clark)	\$20.94	<b>\$24.87</b>	\$26.98

#### IV. Defining “supportive benefits”

DEQ proposes to require parameters or minimum standards for the types and amounts of the benefits provided to a worker to ensure the value and scope of the benefits meets the intent of the statutory direction in the Recycling Modernization Act and could be considered “supportive benefits.”

DEQ proposes to require the following types of benefits, with minimum standards where applicable, be provided to workers at commingled recycling processing facilities for the purposes of this rulemaking:

- Health insurance
  - Coverage must be provided to all workers regardless of status as part-time or full time based on weekly hours worked; however, coverage options may allow for tiered benefits based on full- or part-time status, as defined by state law for the specific facility.
  - Coverage options must comply with, or exceed, Federal Affordable Care Act requirements for “affordability” and “minimum value” plans.
  - Coverage must include vision and dental benefits.
  - Coverage must be made available for people other than the employee (e.g. spouses, dependents, household and other family members, as broadly defined in alignment with Paid Leave Oregon and similar State of Oregon benefit programs).
- Disability insurance (short-term, long-term)
  - This insurance may also incorporate coverage for accidental death and dismemberment unless it is otherwise included in the life insurance provisions, based on insurance industry standards at the time of implementation.

- Life insurance
  - If term life insurance is provided, the term of coverage must be no less than five years.
- Paid time off (sick leave, vacation/discretionary leave, holiday pay)<sup>2</sup>
  - No fewer than 10 vacation/discretionary days (80 hours) per calendar year for full-time workers, with “full-time” as defined by state law <sup>3</sup>for the specific facility.
  - No fewer than 8 vacation/discretionary days (64 hours) per calendar year for part-time workers, with “part-time” as defined by state law for the specific facility.
  - No fewer than 5 sick days (40 hours) per calendar year for all workers, regardless of full- or part-time status.
  - Paid holidays equivalent to those recognized annually by the State of Oregon, as defined by the [State of Oregon’s Department of Administrative Services](#), for all workers regardless of full- or part-time status.
- Training and career development opportunities

In all cases, the benefits are to be provided to the workers at the facility, as defined within this draft rule proposal, on the first day of employment, without a waiting period and regardless of whether the worker is employed directly by the facility or through a contracted/other third-party entity. Please note that any proposed paid leave and disability coverages are *in addition* to the requirements under Paid Leave Oregon for any facility operating in the State of Oregon and *in addition* to any other municipal requirements based on the facility’s physical location. While the draft rule proposals would require the minimum supportive benefits that must be provided to workers, a facility may choose to provide additional benefits at its discretion.

### Discussion questions

When considering the questions below, please think about the administrative rule language that will be the outcome of the rulemaking process. The administrative rule language will be based on this proposed rule concept and will be developed at a later stage in the process.

- Are there alternative definitions for “worker”, “living wage” or “supportive benefits” being used by government entities or private industry that DEQ should consider for this proposed rule concept?
- Are there standards, requirements or best practices in use by government entities or private industry that DEQ should evaluate when considering the scope and types of “supportive benefits” to be defined in this proposed rule concept?

In addition to the discussion questions, DEQ welcomes additional data and information from Committee members regarding all elements of the proposed rule concept.

### Next steps

Following the November Rulemaking Advisory Committee meeting, DEQ will consider committee feedback and begin developing initial draft rule language. The resulting draft rule language will be issued for public comment in late spring 2024 and presented to the Oregon Environmental Quality Commission for review and action in late 2024.

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<sup>2</sup> Proposed paid time off figures are informed by private employer averages of provided leave, based on U.S. Bureau of Labor Statistics, [last published September 2023](#)

<sup>3</sup> For example, the Oregon Employment Department provides a [definition of full-time work](#) as 40 hours per week, for unemployment insurance purposes.

### **Translation or other formats**

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