



Oregon Department of Environmental Quality

Rule Concept: Local Government Compensation for Contamination Reduction Programming

Plastic Pollution and Recycling Modernization Act (SB 582, 2021)

Rulemaking Advisory Committee Meeting 7, Rulemaking 2

March 27, 2024

Background and Statutory Context:

These rule concepts are related to compensation contamination reduction programming. Local governments are eligible for two types of PRO funding related to contamination in recycling per [ORS 459A.890](#):

- The costs of periodically evaluating the quality and contamination of collected materials as required by ORS 459A.929 contamination reduction, if the evaluation occurs at a location other than a commingled recycling processing facility, are eligible costs for funding or reimbursement by a producer responsibility organization. ORS 459A.890(3)
- The costs of contamination reduction programming for residential and commercial customers required by ORS 459A.929, Contamination reduction, and the cost of similar contamination reduction programming provided by local governments not subject to the requirements of ORS 459A.929 (Contamination reduction) are eligible costs for funding or reimbursement by a producer responsibility organization. ORS 459A.890(4)(a)
- The Environmental Quality Commission shall establish by rule methods for determining funding or reimbursement amounts under this subsection. Rules adopted under this subsection may not require producer responsibility organizations to provide funding or reimbursement of more than \$3 per capita per year, based on the population of a local government or, if the local government is a county, the population of the unincorporated area of the county. ORS 459A.890(4)(b)

These rule concepts propose to amend rules adopted by the EQC in November 2023 to provide additional clarification related to these two types of funding.

- I. Distinguishing between the two types of contamination-related compensation
- II. Clarifying the amount of compensation for contamination reduction programming

I. Distinguishing between the two types of contamination-related compensation

Background

In November 2023, the EQC adopted rules that replicated local government statutory obligations so that all Opportunity to Recycle requirements could be found together in the administrative rules. The current language in OAR 340-090-0030(7)(c) references the funding associated with ORS 459A.890(4), while mentioning the periodic contamination evaluation that local governments must cause collected material to undergo, in accordance with the forms and procedures established by DEQ under ORS 459A.959 in OAR 340-090-0030(7)(c)(B).

OAR 340-090-0030(7)(c):

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

Translation or other formats

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

(A) Includes one or more local recycling contamination reduction goals that are consistent with the statewide goals established by the DEQ pursuant to ORS 495A.929(1)(a).

(B) Causes collected source separated recyclables to undergo periodic evaluation of collected material quality and contamination, in accordance with forms and procedures established by the Department of Environmental Quality under ORS 459A.959.

(C) Includes:

(i) At least one of each of the three types of contamination reduction program elements contained on the list established by the DEQ pursuant to ORS 459A.929(1)(c), or

(ii) Uses materials or methods that are at least as effective as materials or methods approved by DEQ pursuant to ORS 459A.929(1)(c).

(D) Includes, at least once every five years, a process for reviewing, and revising as appropriate, the local goals and local elements established under this subsection.

Rule concept for discussion

DEQ proposes to clarify:

1. The work to establish and implement a contamination reduction program as required by ORS 459A.929 is an eligible cost under ORS 459A.890(4) and is subject to the \$3 per capita per year cap.
2. The work to establish and implement a contamination reduction program includes indicating how the local government will cause the periodic evaluation of contamination in collected materials to be conducted in accordance with the forms and procedures established by DEQ per ORS 459A.959.
3. Eligible costs incurred because of conducting periodic evaluation of contamination in collected materials in accordance with ORS 459A.959, if the periodic evaluation happens at a location other than a commingled recycling processing facility, are associated with a separate funding source, ORS 459A.890(3).
4. Eligible costs under ORS 459A.890(3) are not included within the \$3 per capita per year cap associated with ORS 459A.890(4).

II. Clarifying the amount of compensation for contamination reduction programming

Background

In November 2023, the EQC adopted [OAR 340-090-0810\(2\)](#), which clarified the data source for determining the population of a local government:

For the purpose of determining the population of a local government pursuant to ORS 459A.890(4)(b), a local government may rely on the Portland State University Population Research Center's most recent, certified Population Estimate Report, or such other estimate approved by the department. A local government, a local government's service provider, or other person authorized by a local government to receive payment, must use the most recent population estimate at the time of its reimbursement request.

Rule concept for discussion

DEQ proposes to amend OAR 340-090-0810(2) to enable all parties to plan with certainty and fully utilize the compensation available through ORS 459A.890(4) as follows:

1. Delete the final sentence from OAR 340-090-0810(2). Instead, clarify that local governments, their designated service providers, or other authorized persons must use the certified population estimates from the previous year (or if using an alternate approved data source, the most recent population estimate available on January 15 of each year), to calculate eligible contamination reduction programming compensation for the upcoming fiscal year, defined as July 1 through June 30.
2. Clarify that local governments, designated service providers, or other authorized persons are eligible to receive \$3 per capita per fiscal year in compensation for contamination reduction programming conducted in accordance with ORS 459A.929.

3. Clarify that local governments, their designated service providers, or other authorized persons may request and receive advance funding for eligible costs under ORS 459A.890(4). Local governments with a population of no more than 50,000, their designated service providers, or other authorized persons may request and receive funding for several years in advance, up to \$150,000.

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