



Oregon Department of Environmental Quality

Rule Concepts: Updates to Market Share Rules Local Government Requirements for Multi-family Enclosures

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

Rulemaking Advisory Committee Meeting 7, Rulemaking 2

March 27, 2024

Introduction

This is a compilation of additional proposed clarifications and definitions for rule. These topics have been compiled together based on their relative simplicity.

- I. Updates to Market Share Rules
- II. Multifamily Recycling Enclosures

I. Updates to market share rules

Background

Per ORS 459A.884(2), ORS 459A.869(12), ORS 459A.944(2), and OAR 340-090-0700(2), data on producer supply of covered products in or into the state is used by DEQ, producer responsibility organizations, and the PRO coordination body for a variety of purposes, including:

- PRO calculation of fees to be paid by member producers,
- DEQ's calculation of PRO market share and enforcement of the 10 percent minimum market share to operate a program plan in the state,
- DEQ's calculation of producer market share and identification of the 25 large producers subject to an additional disclosure requirement, and
- In the event of multiple PROs, the coordination body's calculation of modified market share for the purpose of dividing system costs among the PROs.

Rule concept for discussion

DEQ proposes to revise rules from rulemaking 1 regarding "interim," "preliminary," and "final" market share and modified market share to align deadlines for submission of supply data with PRO fee setting norms in North American programs (the use of supply data from two years prior to set fees for the current program year). In the revised rules, DEQ proposes to also clarify that DEQ may use interim and preliminary data for fulfilling its oversight and enforcement roles, and will use updated data as it becomes available.

II. Multifamily recycling enclosures

Background

[ORS 459A.911](#) "Other Duties of Local Governments" states the obligation of local governments to ensure adequate and accessible enclosure spaces at multifamily properties for the recycling collection of materials on the uniform statewide collection list. As part of the first RMA rulemaking, the EQC adopted rules in November 2023 that replicated local government statutory obligations so that all Opportunity to Recycle requirements could be found together in the administrative rules.

Translation or other formats

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Rule concept for discussion

DEQ proposes to revise the rules from rulemaking 1 ([OAR 340-090-0300\(7\)\(b\)](#)) as follows to address subsequently-identified implementation challenges:

1. Remove the effective date, which is not found in statute, to allow flexibility to support local governments implementing this and the multi-tenant service requirements ([ORS 459A.005](#)).
2. Clarify that compliance with ORS 459A.911 requires local governments to develop an implementation plan indicating their approach to accomplish the requirements of ORS 459A.911. The plan will be submitted in a time, manner, and form prescribed by DEQ,

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