



Oregon Department of Environmental Quality

## Draft Rules

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

Rulemaking Advisory Committee Meeting 8, Rulemaking 2

The following preliminary draft rules are provided for the rulemaking advisory committee to evaluate potential fiscal impacts of the rules. Headings and numbering are intended to aid readers navigating the document and will not be included in draft rules posted for public input later in 2024. Please also note that draft rules may ultimately be organized in a different sequence than preliminary draft rule presented here.

#### Key to identifying changed text:

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## 1. Recycling Processor Obligations

### Chapter 340

#### Division 93

### SOLID WASTE: GENERAL PROVISIONS

340-093-0030

#### Definitions

As used in OAR chapter 340, divisions 93, 94, 95, 96 and 97 unless otherwise specified:

(1) "Acceptable Risk Level" has the meaning as defined in OAR 340-122-0115 of the Hazardous Substance Remedial Action Rules.

PRELIMINARY DRAFT for Rulemaking Advisory Committee Discussion on Fiscal Impact Statement -- April 2024

(2) "Access Road" means any road owned or controlled by the disposal site or waste tire storage site owner that terminates at the disposal site or waste tire storage site and that provides access for users between the disposal site or waste tire storage site entrance and a public road.

(3) "Agricultural Waste" means waste on farms resulting from the raising or growing of plants and animals including but not limited to crop residue, manure, animal bedding, and carcasses of dead animals.

(4) "Agricultural Composting" means composting conducted by an agricultural operation (as defined in ORS 467.120(2)(a)) on lands used for farming (as defined in ORS 215.203).

(5) "Agronomic Application Rate" means land application of no more than the optimum quantity per acre of compost, sludge or other materials. In no case may such application adversely impact the waters of the state. Such application must be designed to:

(a) Provide the amount of nutrient, usually nitrogen, needed by crops or other plantings, to prevent controllable loss of nutrients to the environment;

(b) Condition and improve the soil comparable to that attained by commonly used soil amendments; or

(c) Adjust soil pH to desired levels.

(6) "Airport" means any area recognized by the Oregon Department of Transportation, Aeronautics Division, for the landing and taking-off of aircraft which is normally open to the public for such use without prior permission.

(7) "Anaerobic Digestion" means the controlled biological breakdown of biodegradable organic material in the absence of oxygen.

(8) "Aquifer" means a geologic formation, group of formations or portion of a formation capable of yielding usable quantities of groundwater to wells or springs.

(9) "Asphalt paving" means asphalt which has been applied to the land to form a street, road, path, parking lot, highway, or similar paved surface and that is weathered, consolidated, and does not contain visual evidence of fresh oil.

(10) "Assets" means all existing and probable future economic benefits obtained or controlled by a particular entity.

(11) "Baling" means a volume reduction technique whereby solid waste is compressed into bales for final disposal.

(12) "Base Flood" means a flood that has a one percent or greater chance of recurring in any year or a flood of a magnitude equaled or exceeded once in 100 years on the average of a significantly long period.

(13) "Beneficial Use" means the productive use of solid waste in a manner that will not create an adverse impact to public health, safety, welfare, or the environment.

(14) "Beneficial Use Determination" means the approval of a beneficial use of a solid waste pursuant to OAR 340-093-0260 through 340-093-0290 either as a standing beneficial use or as a case-specific authorization.

(15) "Biogas" is a gas produced through anaerobic digestion and is primarily composed of methane and carbon dioxide, but also may contain impurities such as hydrogen sulfide.

(16) "Biological Waste" means blood and blood products, excretions, exudates, secretions, suctionings and other body fluids that cannot be directly discarded into a municipal sewer system, and waste materials saturated with blood or body fluids, but does not include diapers soiled with urine or feces.

(17) "Biosolids" means solids derived from primary, secondary or advanced treatment of domestic wastewater which have been treated through one or more controlled processes that significantly reduce pathogens and reduce volatile solids or chemically stabilize solids to the extent that they do not attract vectors.

(18) "Capture Rate" means the proportion of incoming recyclable material that is shipped to a responsible end market relative to the quantity of recyclable material that is received by the commingled recycling processing facility. The rate may be specific to a commodity or the stream as a whole."

(19) "Clean Fill" means material consisting of soil, rock, concrete, brick, building block, tile or asphalt paving, which do not contain contaminants which could adversely impact the waters of the State or public health. This term does not include putrescible wastes, construction and demolition wastes and industrial solid wastes.

(20) "Cleanup Materials Contaminated by Hazardous Substances" means contaminated materials from the cleanup of releases of hazardous substances into the environment, and which are not hazardous wastes as defined by ORS 466.005.

(21) "Closure Permit" means a document issued by the department bearing the signature of the Director or his/her authorized representative which by its conditions authorizes the permittee to complete active operations and requires the permittee to properly close a land disposal site and maintain and monitor the site after closure for a period of time specified by the department.

(22) "Commercial Solid Waste" means solid waste generated by stores, offices, including manufacturing and industry offices, restaurants, warehouses, schools, colleges, universities, hospitals, and other non-manufacturing entities, but does not include solid waste from manufacturing activities. Solid waste from business, manufacturing or processing activities in residential dwellings is also not included.

(23) "Commingled Recycling Reload Facility" means a facility that receives commingled recyclables collected by a local government or local government's service provider as an intermediate step prior to delivery to a commingled recycling processing facility.

(24) "Commingled Recycling Processing Facility" means a facility that:

(a) Receives source separated commingled recyclable materials that are collected commingled from a collection program providing the opportunity to recycle; and

(b) Separates the recyclable materials described in subparagraph (a) of this paragraph into marketable commodities or streams of materials that are intended for use or further processing by others.

(c) "Commingled recycling processing facility" does not include:

(i) Scrap metal recycling facilities;

(ii) Scrap automotive or appliance recycling facilities;

(iii) Full-service redemption centers or dealer redemption centers, as those terms are defined in ORS 459A.700, and recycling facilities owned and operated by a distributor cooperative established under ORS 459A.718;

(iv) Recycling facilities handling covered electronic devices, as defined in ORS 459A.305;

(v) Recycling processing facilities that process only noncommingled, source separated recyclable material from commercial entities;

(vi) Recycling processing facilities that recover commingled recyclable material primarily from the construction and demolition debris waste stream;

(vii) Recycling depots;

(viii) Recycling reload facilities; or

(ix) Limited sort facilities, as defined by rule by the Environmental Quality Commission.

(24) "Commission" means the Environmental Quality Commission or the Commission's authorized designee.

(25) "Composted material" or "Compost" is the solid material resulting from the composting process. It includes both the material produced from aerobic composting and the solid digestate produced by anaerobic digestion, although the solid digestate may require additional composting in order to be suitable for certain applications.

(26) "Composting" means the managed process of controlled biological decomposition of feedstocks. A managed process includes, but is not limited to, reducing feedstock particle size, adding moisture, mixing feedstocks, manipulating composting piles, and performing procedures to achieve human pathogen reduction. "Composting" includes both aerobic composting and anaerobic digestion. Other examples of composting include bokashi, fermentation, and vermiculture.

(27) "Composting Facility" means a site or facility composting feedstocks to produce a useful product through a managed process of controlled biological decomposition. Examples of composting facilities include sites used for composting windrows and piles, anaerobic digestion, vermiculture, vermicomposting and agricultural composting.

(28) "Construction and Demolition Waste" means solid waste resulting from the construction, repair, or demolition of buildings, roads and other structures, and debris from the clearing of land, but does not include clean fill when separated from other construction and demolition wastes and used as fill materials or otherwise land disposed. Such waste typically consists of materials including concrete, bricks, bituminous concrete, asphalt paving, untreated or chemically treated wood, glass, masonry, roofing, siding, plaster; and soils, rock, stumps, boulders, brush and other similar material. This term does not include industrial solid waste and municipal solid waste generated in residential or commercial activities associated with construction and demolition activities.

(29) "Construction and Demolition Landfill" means a landfill that receives only construction and demolition waste.

(30) "Conversion Technology Facility" means a facility that uses primarily chemical or thermal processes other than melting (changing from solid to liquid through heating without changing chemical composition) to produce fuels, chemicals, or other useful products from solid waste. These chemical or thermal processes include, but are not limited to, distillation, gasification, hydrolysis, pyrolysis, thermal depolymerization, transesterification and animal rendering, but do not include direct combustion, composting, anaerobic digestion, melting, or mechanical recycling. Mills that primarily use mechanical recycling or melting to recycle materials back into similar materials are not considered to be conversion technology facilities, even if they use some chemical or thermal processes in the recycling process.

(31) "Corrective Action" means action required by the department to remediate a release of constituents above the levels specified in 40 CFR § 258.56 or OAR chapter 340 division 40, whichever is more stringent.

(32) "Cover Material" means soil or other suitable material approved by the department that is placed over the top and side slopes of solid wastes in a landfill.

(33) "Cultures and Stocks" means etiologic agents and associated biologicals, including specimen cultures and dishes and devices used to transfer, inoculate and mix cultures, wastes from production of biologicals, and serums and discarded live and attenuated vaccines. "Culture" does not include throat and urine cultures.

(34) "Current Assets" means cash or other assets or resources commonly identified as those that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(35) "Current Liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

(36) "Department" means the Department of Environmental Quality.

(37) "Digestate" means both solid and liquid substances that remain following anaerobic digestion of organic material in a composting facility. "Solid digestate" means the solids resulting from anaerobic digestion, and "liquid digestate" means the liquids resulting from anaerobic digestion.

(38) "Digested Sewage Sludge" means the concentrated sewage sludge that has decomposed under controlled conditions of pH, temperature and mixing in a digester tank.

(39) "Director" means the Director of the Department of Environmental Quality or the Director's authorized designee.

(40) "Disposal Site" means land and facilities used for the disposal, handling, treatment or transfer of or energy recovery, material recovery and recycling from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, land application units (except as exempted within the definition of solid waste in this rule), transfer stations, conversion technology facilities, energy recovery facilities, incinerators for solid waste delivered by the public or by a collection

service, composting facilities and land and facilities previously used for solid waste disposal at a land disposal site. The term "disposal site" does not include a facility authorized by a permit issued under ORS 466.005 to 466.385 to store, treat or dispose of both hazardous waste and solid waste; a facility subject to the permit requirements of ORS 468B.050; a site that is used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar non-decomposable clean fill material, unless the site is used by the public either directly or through a collection service; or a site operated by an automobile dismantler issued a certificate under ORS 822.110.

**(41)** "Domestic Solid Waste" includes, but is not limited to, residential (including single and multiple residences), commercial and institutional wastes, as defined in ORS 459A.100; but the term does not include:

- (a) Sewage sludge or septic tank and cesspool pumpings;
- (b) Building demolition or construction wastes and land clearing debris, if delivered to a disposal site that is limited to those purposes and does not receive other domestic solid wastes;
- (c) Source separated recyclable materials, or material recovered at a disposal site or waste tire storage site for recycling;
- (d) Industrial waste going to an industrial waste facility; or
- (e) Waste received at an ash monofill from an energy recovery facility.

**(42)** "Endangered or Threatened Species" means any species listed as such pursuant to Section 4 of the federal Endangered Species Act and any other species so listed by the Oregon Department of Fish and Wildlife.

**(43)** "Energy Recovery" means recovery in which all or a part of the solid waste materials are processed to use the heat content, or other forms of energy, of or from the material. Energy recovery includes the direct combustion of solid waste in an energy recovery facility and the production of fuels intended to be burned as an energy source, such as the pyrolysis of plastics to produce fuel oils or the grinding of wood waste to produce combustion fuel.

**(44)** "Energy Recovery Facility" means a facility that directly combusts solid waste and uses the heat energy generated for some useful purpose such as to produce electricity or to produce steam to be used in an industrial process.

**(45)** "Feedstock" means organic and other solid wastes used in a composting process to produce composted material, or used in a conversion technology facility to produce other products. For composting, four types of feedstocks are defined:

(a) Type 1 feedstocks include source-separated yard and garden wastes, wood wastes, agricultural crop residues, wax-coated cardboard, vegetative food wastes including department approved industrially produced vegetative food waste, and other materials the department determines pose a low level of risk from hazardous substances, physical contaminants and human pathogens. Type 1 feedstocks also include digestate derived only from type 1 feedstocks.

(b) Type 2 feedstocks include manure and bedding and other materials the department determines pose a low level of risk from hazardous substances and physical contaminants and

a higher level of risk from human pathogens compared to type 1 feedstock. Type 2 feedstocks also include digestate derived from feedstocks that include Type 2 feedstocks but does not include any type 3 or type X feedstock.

(c) Type 3 feedstocks include dead animals, meat and source-separated mixed food waste and industrially produced non-vegetative food waste. They also include other materials the department determines pose a low level of risk from hazardous substances and a higher level of risk from physical contaminants and human pathogens compared to type 1 and 2 feedstocks. Type 3 feedstocks also include digestate derived from feedstocks that include Type 3 feedstocks but does not include any type X feedstock.

(d) Type X feedstocks include specified risk material (SRM) from bovine animal mortality and animal by-products from slaughter that pose a risk to the environment and public health from exposure to prions that can cause Bovine Spongiform Encephalitis (BSE). This includes the brain, skull, eyes, trigeminal ganglia, spinal cord, vertebral column (excluding the vertebrae of the tail, the transverse processes of the thoracic and lumbar vertebrae, and the wings of the sacrum), and dorsal root ganglia from cattle 30 months of age and older and the distal ileum of the small intestine and the tonsils from all cattle. It also includes whole cattle from which the SRM has not been removed, cattle that are not able to walk, and cattle with symptoms that might indicate BSE disease. Type X feedstocks also include digestate that was derived from any quantity of type X feedstocks.

**(46)** "Financial Assurance" means a plan for:

(a) Disposal sites and waste tire storage sites setting aside financial resources or otherwise assuring that adequate funds are available to properly close and to maintain and monitor a disposal site or waste tire storage site after the site is closed according to the requirements of a permit issued by the department.

(b) Waste tire carriers setting aside financial resources or otherwise assuring that adequate funds are available to ensure compliance with and ORS 459.705 to 459.790 and waste tire carrier rules OAR 340-096-0260 to OAR 340-096-0290.

**(47)** "Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters that are inundated by the base flood.

**(48)** "Gravel Pit" means an excavation in an alluvial area from which sand or gravel has been or is being mined.

**(49)** "Groundwater" means water that occurs beneath the land surface in the zone(s) of saturation.

**(50)** "Hazardous Substance" means any substance defined as a hazardous substance pursuant to Section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. 9601 et seq.; oil, as defined in ORS 465.200; and any substance designated by the Commission under ORS 465.400.

**(51)** "Hazardous Waste" means discarded, useless or unwanted materials or residues and other wastes that are defined as hazardous waste pursuant to ORS 466.005.

(52) "Heat-Treated" means a process of drying or treating sewage sludge where there is an exposure of all portions of the sludge to high temperatures for a sufficient time to kill all pathogenic organisms.

(53) "Home composting" means composting operated and controlled by the owner or person in control of a single or multiple family dwelling unit and used to compost residential food waste produced within the dwelling unit and yard debris produced on the property.

(54) "Incinerator" means any device used for the reduction of combustible solid wastes by burning under conditions of controlled airflow and temperature.

(55) "Industrial Solid Waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under ORS Chapters 465 and 466 or under Subtitle C of the federal Resource Conservation and Recovery Act. Such waste may include, but is not limited to, waste resulting from the following processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; water treatment; and timber products manufacturing. This term does not include construction/demolition waste; municipal solid waste from manufacturing or industrial facilities such as office or "lunch room" waste; or packaging material for products delivered to the generator.

(56) "Industrial Waste Landfill" means a landfill that receives only a specific type or combination of industrial waste.

(57) "Inert" means containing only constituents that are biologically and chemically inactive and that, when exposed to biodegradation and/or leaching, will not adversely impact the waters of the state or public health.

(58) "Infectious Waste" means biological waste, cultures and stocks, pathological waste, and sharps; as defined in ORS 459.386.

(59) "Land Application Unit" means a disposal site where sludges or other solid wastes are applied onto or incorporated into the soil surface for agricultural purposes or for treatment and disposal.

(60) "Land Disposal Site" means a disposal site in which the method of disposing of solid waste is by landfill, dump, waste pile, pit, pond, lagoon or land application.

(61) "Landfill" means a facility for the disposal of solid waste involving the placement of solid waste on or beneath the land surface.

(62) "Leachate" means liquid that has come into direct contact with solid waste and contains dissolved, miscible and/or suspended contaminants as a result of such contact.

(63) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(64) "Limited Sort Facility" means:



(a) A facility that receives a specific subset of processed Uniform Statewide Collection List materials from a commingled recycling processing facility that meets the requirements under ORS 459A.905(2)(a) and that could be considered a secondary processor or a responsible end market; or

(b) A facility that:

A) Removes more than 0% and less than 50%, by weight of one stream of incoming commingled

recyclable material collected by a collection program providing the Opportunity to Recycle;

B) Markets removed materials to responsible end markets;

C) Manages contaminants in those removed materials to avoid impacts on other waste streams or facilities;

D) Accurately reports to DEQ the final end markets of removed materials and;

E) Sends remaining material to a commingled recycling processing facility that meets the requirements under ORS 459A.902(2)(a).

(65) "Local Government Unit" means a city, county, Metropolitan Service District formed under ORS Chapter 268, sanitary district or sanitary authority formed under ORS Chapter 450, county service district formed under ORS Chapter 451, regional air quality control authority formed under ORS 468A.100 to 468A.130 and 468A.140 to 468A.175 or any other local government unit responsible for solid waste management.

(66) "Low-Risk Disposal Site" means a disposal site which, based upon its size, site location, and waste characteristics, the department determines to be unlikely to adversely impact the waters of the State or public health.

(67) "Material Recovery" means any process of obtaining from solid waste, by pre-segregation or otherwise, materials which still have useful physical or chemical properties and can be reused, recycled or composted for some purpose.

(68) "Material Recovery Facility" means a solid waste management facility that separates materials for the purposes of recycling from an incoming mixed solid waste stream by using manual and/or mechanical methods, or a facility at which previously separated recyclables are collected.

(69) "Medical Waste" means solid waste that is generated as a result of patient diagnosis, treatment, or immunization of human beings or animals.

(70) "Mobile Disposal Site" means a disposal site facility that is intended to be moved from place to place in order to process wastes in different locations.

(71) "Monofill" means a landfill or landfill cell into which only one type of waste may be placed.

(72) "Municipal Solid Waste Landfill" means a discrete area of land or an excavation that receives domestic solid waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under § 257.2 of 40 CFR, Part 257. It may also receive other types of wastes such as nonhazardous sludge, hazardous waste from conditionally exempt small quantity generators, construction and demolition waste and industrial solid waste.

(73) "Net Working Capital" means current assets minus current liabilities.

(74) "Net Worth" means total assets minus total liabilities and is equivalent to owner's equity.

(75) "Passenger Tire" means a tire with less than an 18-inch rim diameter.

(76) "Passenger Tire Equivalent" means a measure of mixed passenger and truck tires, where five passenger tires are considered to equal one truck tire.

(77) "Pathological Waste" means biopsy materials and all human tissues, anatomical parts that emanate from surgery, obstetrical procedures, autopsy and laboratory procedures and animal carcasses exposed to pathogens in research and the bedding and other waste from such animals. "Pathological waste" does not include teeth or formaldehyde or other preservative agents.

(78) "Permit" means a document issued by the department which by its conditions may authorize the permittee to construct, install, modify, operate or close a disposal site, waste tire carrier or waste tire storage site in accordance with specified limitations.

(79) "Permit Action" means the issuance, modification, renewal or revocation of a permit by the department.

(80) "Person" means the United States, the state or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity.

(81) "Processing of Wastes" means any technology designed to change the physical form or chemical content of solid waste including, but not limited to, baling, composting, classifying, hydropulping, incinerating and shredding.

(82) "Public Waters" or "Waters of the State" include lakes, bays, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Pacific Ocean within the territorial limits of the State of Oregon and all other bodies of surface or underground waters, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters which do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.

(83) "Putrescible Waste" means solid waste containing organic material that can be rapidly decomposed by microorganisms, and which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.

(84) "Recycling" means any process by which solid waste materials are transformed into new products in such a manner that the original products may lose their identity.

(85) "Recycling Reload Facility" means a facility other than a recycling depot where recyclable materials are received, consolidated and made ready for transport to another location for processing or to a responsible end market.

(86) "Regional Disposal Site" means a disposal site that receives, or a proposed disposal site that is designed to receive more than 75,000 tons of solid waste a year from outside the immediate service area in which the disposal site is located. As used in this section, "immediate service area" means the county boundary of all counties except a county that is within the

boundary of the Metropolitan Service District. For a county within the Metropolitan Service District, "immediate service area" means that Metropolitan Service District boundary.

(87) "Release" has the meaning given in ORS 465.200(14).

(88) "Resource Recovery" means the process of obtaining useful material or energy from solid waste and includes energy recovery, material recovery and recycling.

(89) "Retreadable Casing" means a waste tire suitable for retreading.

(90) "Reuse" means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

(91) "Salvage" means the controlled removal of reusable, recyclable or otherwise recoverable materials from solid wastes at a solid waste disposal site or waste tire storage site.

(92) "Sensitive Aquifer" means any unconfined or semiconfined aquifer that is hydraulically connected to a water table aquifer, and where flow could occur between the aquifers due to either natural gradients or induced gradients resulting from pumpage.

(93) "Sensitive Environment" means a sensitive environment defined in OAR 340-122-0115(50) of the Hazardous Substance Remedial Action Rules.

(94) "Septage" means the pumpings from septic tanks, cesspools, holding tanks, chemical toilets and other sewage sludges not derived at sewage treatment plants.

(95) "Sharps" means needles, IV tubing with needles attached, scalpel blades, lancets, glass tubes that could be broken during handling and syringes that have been removed from their original sterile containers.

(96) "Sludge" means any solid or semi-solid waste and associated supernatant generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility or any other such waste having similar characteristics and effects.

(97) "Sole Source Aquifer" means the only available aquifer, in any given geographic area, containing potable groundwater with sufficient yields to supply domestic or municipal water wells.

(98) "Solid Waste" means all useless or discarded putrescible and non-putrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and construction materials, discarded or abandoned vehicles or parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid materials, dead animals and infectious waste. The term does not include:

(a) Hazardous waste as defined in ORS 466.005;

(b) Materials used for fertilizer, soil conditioning, humus restoration, or for other productive purposes or which are salvageable for these purposes and are used on land in agricultural operations and the growing or harvesting of crops and the raising of fowls or animals, provided the materials are used at or below agronomic application rates; or

(c) Woody biomass that is combusted as a fuel by a facility that has obtained a permit described in ORS 468A.040.

(99) "Solid Waste Boundary" means the outermost perimeter (on the horizontal plane) of the solid waste at a landfill as it would exist at completion of the disposal activity.

(100) "Source Separate" means that the person who last uses recyclable materials separates the recyclable material from other solid waste.

(101) "Tangible Net Worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

(102) "Third Party Costs" mean the costs of hiring a third party to conduct required closure, post-closure or corrective action activities.

(103) "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a vehicle in which a person or property is or may be transported in or drawn by upon a highway. "Tire" does not include tires from vehicles not driven on highways, including bulldozers, mobile cranes, road graders, loaders, rotary snow plows, road rollers and road sanders. Except for the purposes of disposal under OAR 340-093-0190(4), "tire" does not include tires from the following:

(a) A device moved only by human power;

(b) A device used only upon fixed rails or tracks;

(c) A motorcycle;

(d) An all-terrain vehicle, including but not limited to, three-wheel and four-wheel ATVs, dune buggies and other similar vehicles. All-terrain vehicles do not include jeeps, pick-ups and other four-wheel drive vehicles that may be registered, licensed and driven on public roads in Oregon;

(e) A device used only for farming, except a farm truck;

(f) A retreadable casing while under the control of a tire retreader or while being delivered to a tire retreader.

(104) "Tire Carrier" means a person who picks up or transports waste tires for the purpose of storage, removal to a processor or disposal. "Tire carrier" does not include the following:

(a) Solid waste collectors operating under a license or franchise from a local government unit;

(b) Persons who transport fewer than five tires for disposal;

(c) Persons who transport their own waste tires to a processor or for proper disposal;

(d) The United States, the State of Oregon, any county, city, town or municipality in this state, or any agency of the United States, the State of Oregon or a county, city, town or municipality of this state.

(105) "Tire-Derived Materials" means tire chips or other materials produced from the physical processing of waste tires and used for productive purposes and not disposal.

(106) "Tire Retailer" means a person actively engaged in the business of selling new replacement tires at retail, whose local business license or permit (if required) specifically allows such sale. To be "actively" engaged in selling new tires, the person must demonstrate to the Department's satisfaction that new replacement tires have been sold in the preceding calendar quarter.

(107) "Tire Retreader" means a person actively engaged in the business of retreading waste tires by scarifying the surface to remove the old surface tread and attaching a new tread to make a usable tire for sale to the public.

(108) "Transfer Station" means a fixed or mobile facility other than a collection vehicle where solid waste is taken from a smaller collection vehicle and placed in a larger transportation unit for transport to a final disposal location.

(109) "Treatment" means any method, technique, or process designed to change the physical, chemical, or biological character or composition of any solid waste except for composting, material recovery, or energy recovery. Treatment includes but is not limited to detoxifying or remediating solid waste prior to disposal or beneficial use.

(110) "Treatment Facility" means a facility intended for treatment of solid waste. It includes but is not limited to soil remediation facilities and rotary kilns used to treat oily sludges. It does not include composting facilities, material recovery facilities, energy recovery facilities, incinerators, or conversion technology facilities as defined in this rule.

(111) "Truck Tire" means a tire with a rim diameter between 18 and 24.5 inches.

(112) "Underground Drinking Water Source" means an aquifer supplying or likely to supply drinking water for human consumption.

(113) "Vector" means any insect, rodent or other animal capable of transmitting, directly or indirectly, infectious diseases to humans or from one person or animal to another.

(114) "Vegetative" means feedstocks used for composting that are derived from plants including but not limited to: fruit and vegetable peelings or parts, grains, coffee grounds, crop residue, waxed cardboard and uncoated paper products. Vegetative material does not include oil, grease, or dairy products such as milk, mayonnaise or ice cream.

(115) "Vermicomposting" means the controlled and managed process by which live worms convert solid waste into dark, fertile, granular excrement.

(116) "Vermiculture" means the raising of earth worms for the purpose of collecting castings for composting or enhancement of a growing medium.

(117) "Waste Tire" means a tire that is no longer suitable for its original intended purpose because of wear, damage or defect.

(118) "Water Table Aquifer" means an unconfined aquifer in which the water table forms the upper boundary of the aquifer. The water table is typically below the upper boundary of the geologic strata containing the water, the pressure head in the aquifer is zero and elevation head equals the total head.

**(119)** "Wellhead protection area" means the surface and subsurface area surrounding a water well, spring or wellfield, supplying a public water system, through which contaminants are reasonably likely to move toward and reach that water well, spring, or wellfield. A public water system is a system supplying water for human consumption that has four or more service connections or supplies water to a public or commercial establishment which operates a total of at least 60 days per year, and which is used by 10 or more individuals per day.

**(120)** "Wood waste" means chemically untreated wood pieces or particles generated from processes commonly used in the timber products industry. Such materials include but are not limited to sawdust, chips, shavings, stumps, bark, hog-fuel and log sort yard waste, but do not include wood pieces or particles containing or treated with chemical additives, glue resin, or chemical preservatives.

**(121)** "Wood waste Landfill" means a landfill that receives primarily wood waste.

**(122)** "Woody biomass" means material from trees and woody plants, including limbs, tops, needles, leaves and other woody parts, grown in a forest, woodland, farm, rangeland or wildland-urban interface environment that is the by-product of forest management, ecosystem restoration or hazardous fuel reduction treatment.

**(123)** "Zone of Saturation" means a three-dimensional section of the soil or rock in which all open spaces are filled with groundwater. The thickness and extent of a saturated zone may vary seasonally or periodically in response to changes in the rate or amount of groundwater recharge, discharge or withdrawal.

**Statutory/Other Authority:** ORS 459.045, 468.020, 459.775, 459.780 & 459.785

**Statutes/Other Implemented:** ORS 459, 459A & 459.705

**History:**

- DEQ 11-2023, amend filed 07/21/2023, effective 07/21/2023
- DEQ 13-2019, amend filed 05/16/2019, effective 05/16/2019
- DEQ 7-2013, f. & cert. ef. 8-29-13
- DEQ 4-2010, f. & cert. ef. 5-14-10
- DEQ 6-2009, f. & cert. ef. 9-14-09
- DEQ 15-2000, f. & cert. ef. 10-11-00
- DEQ 27-1998, f. & cert. ef. 11-13-98
- DEQ 17-1997, f. & cert. ef. 8-14-97
- DEQ 9-1996, f. & cert. ef. 7-10-96
- DEQ 10-1994, f. & cert. ef. 5-4-94
- DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0010
- DEQ 24-1990, f. & cert. ef. 7-6-90
- DEQ 14-1990, f. & cert. ef. 3-22-90
- DEQ 18-1988, f. & cert. ef. 7-13-88 (and corrected 2-3-89)
- DEQ 2-1984, f. & ef. 1-16-84
- DEQ 26-1981, f. & ef. 9-8-81
- DEQ 41, f. 4-5-72, ef. 4-15-72

**340-093-0050**

**Permit Required**

PRELIMINARY DRAFT for Rulemaking Advisory Committee Discussion on Fiscal Impact Statement -- April 2024

(1) Except as provided by OAR 340-093-0050(5) , no person may establish, operate, maintain or substantially alter, expand, improve or close a disposal site or waste tire storage site, and no person may change the method or type of disposal at a disposal site or waste tire storage site, until the person owning or controlling the disposal site or waste tire storage site obtains a permit therefore from the Department.

(2) Persons owning or controlling the following classes of disposal sites must comply with the requirements in the following rules:

(a) Municipal solid waste landfills must comply with OAR 340, division 94 "Municipal Solid Waste Landfills";

(b) Industrial Solid Waste Landfills, Construction and Demolition Landfills, Wood Waste Landfills and other facilities not listed in OAR 340, division 96 must comply with OAR 340, division 95 "Land Disposal Sites Other Than Municipal Solid Waste Landfills";

(c) Energy recovery facilities and incinerators receiving domestic solid waste must comply with OAR 340, division 96 "Special Rules Pertaining to Incineration";

(d) Composting facilities must comply with OAR 340-096-0060 through 340-096-0150: "Special Rules Pertaining to Composting."

(e) Land used for deposit, spreading, lagooning or disposal of sewage sludge, septage and other sludges must comply with OAR 340-096-0030 "Special Rules Pertaining to Sludge and Land Application Disposal Sites";

(f) Transfer stations and Material Recovery Facilities must comply with OAR 340-096-0040 "Transfer Stations and Material Recovery Facilities";

(g) Petroleum contaminated soil remediation facilities and all other solid waste treatment facilities must comply with OAR 340-096-0050 "Solid Waste Treatment Facilities"; and

(h) Conversion technology facilities must comply with OAR 340-096-0160 to 340-096-0200 "Conversion Technology Facilities."

[\(i\) Commingled recycling processing facilities must comply with OAR 340-096-0300 "Commingled Recycling Processing Facilities".](#)

[\(j\) Limited sort facilities must comply with requirements in OAR 340-096-0300 "Commingled recycling processing facility, except for 340-096-0300\(2\)\(a\) capture rates.](#)

(3) Waste tire storage sites must comply with OAR 340-096-0210 through 340-096-0240.

(4) Waste tire carriers must comply with OAR 340-096-0260 through 340-096-0290.

(5) Persons owning or controlling the following classes of disposal sites are specifically exempted from the above requirements to obtain a permit under OAR chapter 340, divisions 93 through 97, but must comply with all other provisions of OAR chapter 340, divisions 93 through 97 and other applicable laws, rules, and regulations regarding solid waste disposal:

(a) A facility authorized by a permit issued under ORS 466.005 to 466.385 to store, treat or dispose of both hazardous waste and solid waste;

PRELIMINARY DRAFT for Rulemaking Advisory Committee Discussion on Fiscal Impact Statement -- April 2024

(b) Disposal sites, facilities or disposal operations operated under a permit issued under ORS 468B.050 if all applicable requirements in OAR chapter 340, divisions 93 through 97 have been met;

(c) A land disposal site used exclusively for the disposal of clean fill, unless the materials have been contaminated such that the department determines that their nature, amount or location may create an adverse impact on groundwater, surface water or public health or safety;

[NOTE: Such a landfill may require a permit from the Oregon Division of State Lands. A person wishing to obtain a permit exemption for an inert waste not specifically mentioned in this subsection may submit a request to the department with such information as the department may require to evaluate the request for exemption, under OAR 340-093-0080.]

(d) A site or facility that conducts solid waste operations or activities that are limited to one or more of the following, excluding a commingled recycling processing facility, a limited sort facility, a recycling reload facility, a commingled recycling reload facility or a site or facility where the department determines that the nature, amount or location of the materials or operations may constitute a potential threat of adverse impact on the environment or public health:

(A) Using any amount of sewage sludge or biosolids under a valid water quality permit issued under ORS 468B.050;

(B) Receiving source separated materials for purposes of material recovery;

(C) Receiving, storing, processing or grinding wood, including painted wood, from construction and demolition and other activities to make a combustion fuel, when that fuel is to be burned at a facility that is in compliance with air quality rules;

(D) Receiving and processing for recycling metal, cardboard, and other non-hazardous materials that have been separated from solid waste at material recovery facilities;

(E) Receiving or processing plastics to make a feedstock for a conversion technology facility, except the following plastics:

(i) Plastics that have viable recycling markets and are acceptable in most Oregon curbside recycling collection programs, or

(ii) Clean polyolefin film plastics acceptable in commercial recycling programs;

(F) Receiving and storing used oil for transfer to another facility for processing. The facility must accept and store used oil in compliance with state and federal used oil regulations;

(G) Combusting fuels made in part from tire chips or wood, including painted wood, when burned for energy recovery in compliance with air quality rules;

(H) Transferring a container, including but not limited to a shipping container, or other vehicle holding solid waste from one mode of transportation to another (such as barge to truck); if:

(i) The container or vehicle is not available for direct use by the general public;

(ii) The waste is not removed from the original container or vehicle; and

(iii) The original container or vehicle does not stay in one location longer than 72 hours, unless otherwise authorized by the department.



(6) The Department may, in accordance with a specific permit containing a compliance schedule, grant reasonable time for solid waste disposal or waste tire storage sites or waste tire carriers to comply with OAR chapter 340, divisions 93 through 97.

(7) If it is determined by the Department that a proposed or existing disposal site or waste tire storage site is not likely to create a public nuisance, health hazard, air or water pollution or other environmental problem, the Department may waive any or all requirements of OAR 340-093-0070, 340-093-0130, 340-093-0140, 340-093-0150, 340-094-0060(2) and 340-095-0030(2) and issue a letter authorization in accordance with OAR 340-093-0060.

(8) Each person who is required by OAR 340-093-0050 (1) through (4) and (7) to obtain a permit must:

(a) Make prompt application to the Department therefore;

(b) Fulfill each and every term and condition of any permit issued by the Department to such person;

(c) Comply with OAR chapter 340, divisions 93 through 97;

(d) Comply with the Department's requirements for recording, reporting, monitoring, entry, inspection, and sampling, and make no false statements, representations, or certifications in any form, notice, report, or document required thereby; and

(e) Allow the Department or an authorized governmental agency to enter the property under permit at reasonable times to inspect and monitor the site and records as authorized by ORS 459.385, 459.272 and 459.760.

(9) Failure to conduct solid waste disposal or waste tire storage or waste tire carrier requirements according to the conditions, limitations, or terms of a permit or OAR chapter 340, divisions 93 through 97, or failure to obtain a permit is a violation of OAR chapter 340, divisions 93 through 97 and may be cause for the assessment of civil penalties for each violation as provided in OAR chapter 340, division 12 or for any other enforcement action provided by law. Each and every day that a violation occurs is considered a separate violation and may be the subject of separate penalties.

**Statutory/Other Authority:** ORS 459A.025, 459.045, 468.020 & 459.705 to 459.760

**Statutes/Other Implemented:** ORS 459.205, 459.215 & 459.225

**History:**

DEQ 11-2023, amend filed 07/21/2023, effective 07/21/2023

DEQ 7-2013, f. & cert. ef. 8-29-13

DEQ 6-2009, f. & cert. ef. 9-14-09

DEQ 27-1998, f. & cert. ef. 11-13-98

DEQ 17-1997, f. & cert. ef. 8-14-97

DEQ 2-1995, f. & cert. ef. 1-10-95

DEQ 10-1994, f. & cert. ef. 5-4-94

DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0020

DEQ 14-1984, f. & ef. 8-8-84

DEQ 2-1984, f. & ef. 1-16-84

DEQ 26-1981, f. & ef. 9-8-81

DEQ 41, f. 4-5-72, ef. 4-15-72

**340-093-0105**

**Categories for Permit Actions**

(1) Category 1:

- (a) Waste Tire Carrier Permit under 340-096-0260.
- (b) Letter Authorization under 340-093-0060.
- (c) Modification to a permit that is administrative in nature or does not alter permit conditions.

(2) Category 2:

- (a) Renewal of a construction and demolition debris landfill permit under 340-093-0070.
- (b) Renewal of an industrial waste landfill permit under 340-093-0070.
- (c) Renewal of a closure permit under 340-094-0100 and 340-095-0500.
- (d) Renewal of a transfer station permit under 340-096-0040.
- (e) Renewal of a material recovery facility permit under 340-096-0040.
- (f) Renewal of a solid waste treatment facility permit under 340-093-0070.
- (g) Renewal of a waste tire storage permit under 340-093-0050.
- (h) Renewal of a solid waste composting permit under 340-093-0070.
- (i) New composting facility registration issued under OAR 340-096-0100.
- (j) Renewal of a composting facility registration under 340-096-0100.
- (k) New conversion technology facility registration under 340-096-0190.
- (l) Renewal of a conversion technology facility registration under 340-093-0070.
- (m) Renewal of a conversion technology facility permit under 340-093-0070.
- (n) Renewal of a commingled recycling processing facility under 340-093-0070.
- (o) Renewal of a limited sort facility under 340-093-0070.
- (p) All other modifications not listed under category 1.

(3) Category 3:

- (a) New captive industrial facility permit as defined in 340-097-0120(1)(c).
- (b) New transfer station or material recovery facility permit under 340-096-0040.
- (c) New composting permit issued under 340-096-0110.
- (d) New closure permit under 340-094-0100 and 340-095-0500.
- (e) New construction and demolition landfill permit under 340-095-0001.
- (f) New solid waste treatment facility permit under 340-096-0050.

- (g) New off-site industrial facility permit under 340-097-0120(2)(a).
- (h) New sludge disposal facility permit under 340-096-0030.
- (i) New waste tire storage permit under 340-096-0210.
- (j) Renewal of a municipal landfill permit under 340-093-0070.
- (k) Renewal of an incinerator or energy recovery facility permit under 340-093-0070.
- (l) New conversion technology facility permit under 340-096-0200.

(m) New commingled recycling processing facility permit under 340-096-0300.

(n) New limited sort facility permit under 340-096-0300.

(4) Category 4:

- (a) New municipal solid waste landfill facility permit under 340-094-0001.
- (b) New incinerator permit under 340-096-0010.
- (c) New energy recovery facility permit under 340-097-0120(2)(a).

**Statutory/Other Authority:** 459A.025, 459.045 & 468.020

**Statutes/Other Implemented:** ORS 459.245

**History:**

[DEQ 11-2023, amend filed 07/21/2023, effective 07/21/2023](#)

DEQ 7-2013, f. & cert. ef. 8-29-13

DEQ 6-2009, f. & cert. ef. 9-14-09

DEQ 15-2000, f. & cert. ef. 10-11-00

### **340-093-0160**

#### **Place for Collecting Recyclable Material**

(1) Beginning July 1, 2025, all solid waste permittees shall ensure that a place for collecting source separated recyclable material identified in OAR 340-090-0630 is provided for every person whose solid waste enters the disposal site. The place for collecting recyclable material shall be located either at the disposal site or at another location more convenient to the population served by the disposal site.

(2) Any disposal site that identifies a more convenient location for the collection of recyclable materials as part of providing the opportunity to recycle shall provide information to users of the disposal site about the location of the recycling collection site, what recyclable materials are accepted and hours of operation.

(3) Exemption. Any disposal site meeting one of the following criteria is not required to provide a place for collecting source separated recyclable material:

- (a) Receives only feedstocks for composting; or
- (b) Does not receive source separated recyclable material; or

(c) Does not receive solid waste containing recyclable material: or

(d) Is not open to the public; or

(e) Approval by the Department of a written request for exemption.

(4) Small Rural Sites. Any disposal site from which marketing of recyclable material is impracticable due to the amount or type of recyclable material received or geographic location shall provide information to the users of the disposal site about the opportunity to recycle at another location serving the watershed. Such information shall include the location of the recycling opportunity, what recyclable materials are accepted and hours of operation.

(5) The Department may modify the requirements in this rule if the Department finds that the opportunity to recycle is being provided through an acceptable alternative method.

**Statutory/Other Authority:** ORS 459.045, 459A.100 - 459A.120 & 468.020

**Statutes/Other Implemented:** ORS 459.250

**History:**

DEQ 17-1997, f. & cert. ef. 8-14-97

DEQ 10-1994, f. & cert. ef. 5-4-94

DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-060-0065

DEQ 31-1992, f. & cert. ef. 12-18-92 (and corrected 1-5-93)

DEQ 26-1984, f. & ef. 12-26-84

DEQ 26-1981, f. & ef. 9-8-81

## Division 96

### SOLID WASTE: PERMITS SPECIAL RULES FOR SELECTED SOLID WASTE DISPOSAL SITES, WASTE TIRE STORAGE SITES AND WASTE TIRE CARRIERS

#### 340-096-0001

##### Applicability

(1) OAR Chapter 340, Division 96 applies to energy recovery facilities and incinerators receiving solid waste delivered by the public or by a solid waste collection service, commingled recycling processing facilities, composting facilities, conversion technology facilities, sludge disposal sites, land application disposal sites, transfer stations, limited sort facilities, material recovery facilities and, solid waste treatment facilities. Such facilities are disposal sites as defined by ORS Chapter 459, and are also subject to the requirements of ORS 459A, OAR chapter 340, division 90, division 93, division 95, including financial assurance requirements, and division 97. The Department may tailor the financial assurance requirements to the nature of the facility and may exempt low risk facilities from the financial assurance requirements. For purposes of these division 96 rules, a low risk facility is one the Department determines is not likely to generate significant amounts of residual waste materials or contamination from the operation of the facility that will remain at closure.

(2) OAR Chapter 340 Division 96 also applies to waste tire storage sites and waste tire carriers. Waste tire storage sites and waste tire carriers are both subject to financial assurance requirements. The Department will modify active permits for any waste tire storage site or waste tire carrier in operation upon the effective date of these rules and issue permits to be consistent

with OAR 340, Divisions 93, 96 and 97, at no additional application fee to the permittee. The Department will modify active permits for any combined tire carrier/storage site in operation upon the effective date of these rules and issue separate waste tire carrier and waste tire storage permits. The Department will modify active permits for any beneficial use waste tire storage site in operation upon the effective date of these rules and issue waste tire storage permits.

**Statutory/Other Authority:** ORS 459.005 - 459.418, 459A.100 - 459A.120 & 459.785

**Statutes/Other Implemented:** ORS 459.015 & 459.045

**History:**

DEQ 11-2023, amend filed 07/21/2023, effective 07/21/2023

DEQ 7-2013, f. & cert. ef. 8-29-13

DEQ 6-2009, f. & cert. ef. 9-14-09

DEQ 5-1993, f. & cert. ef. 3-10-93

**340-096-0300**

**Commingled Recycling Processing Facilities and Limited Sort Facilities**

(1) Applicability.

- (a) This rule applies to all commingled recycling processing facilities and limited sort facilities. Such facilities are disposal sites as defined by ORS Chapter 459 and 459A and are also subject to the requirements of OAR chapter 340, divisions 90, 93, 95 and 97 as applicable.
- (b) Beginning on July 1, 2025, no person may construct or operate a commingled recycling processing or limited sort facility except as provided in this rule.
- (c) A commingled recycling processing facilities must comply with all requirements in this rule.
- (d) A limited sort facility must comply with all requirements in this rule except (2)(a) capture rate.
- (e) A commingled recycling processing facility, possessing an active solid waste disposal site permit and in operation before July 1, 2025, that submitted materials required by OAR 340-093-0050 for a new commingled recycling processing facility permit by February 1, 2025 may continue in operation pending a determination by the department and issuance of a commingled recycling processing facility permit.

(2) Recyclable Material Processing Performance Standards

(a) Capture rate

- (A) A commingled recycling processing facility must sort all Uniform Statewide Collection List material in OAR 340-0090-0630 so that material does not become contaminants in other waste streams.
- (B) A commingled recycling processing facility must comply with the material capture rates established in the Material Capture Rate table (pdf) A commingled recycling processing facility can achieve a capture rate either by capturing the material at its own facility or directing material to a facility (for secondary processing) that achieves the capture rate, or some combination of the two.

- (C) The Department will conduct periodic assessments to determine compliance with the capture rates performance standard, as described in Section 3 of this rule.
- (b) Outbound contamination
  - (A) All Uniform Statewide Collection List material in OAR 340-0090-0630, sent to a responsible end market must not contain more than 5% contamination, as defined in ORS 459A.863(4)(b), by weight.
- (c) The Department may conduct periodic assessments to determine compliance with the outbound contamination rate, as described in Section 3 of this rule. Responsible end market
  - (A) All material listed on the Uniform Statewide Collection List in OAR 340-0090-0630(2) that has been processed must be sent to a responsible end market.
  - (B) Commingled recycling processing facilities and limited sort facilities must comply with all responsible end market requirements established under OAR 340-[TK]

(3) Assessment of Capture Rates and Outbound Contamination

(a) For the purposes of this section, “conventional evaluation method assessment” means the manual sorting of material, whether the material to be sorted is in loose or baled form, to determine a facility’s compliance with the capture rate and outbound contamination rate performance standards.

(b) For the purposes of this section, “alternative evaluation method assessment” means the use of a method other than manual sorting of material, to determine a facility’s compliance with the capture rate and outbound contamination rate performance standards. An example of such a method is use of artificial intelligence technology.

(c) Each permitted commingled recycling processing facility must undergo at least one unannounced conventional evaluation method assessment within the first 2.5-year program plan period, with that assessment sampling material from each of the established capture rate-related commodities categories. For each subsequent five-year program plan period, each processing facility must undergo at least two unannounced conventional evaluation method assessments. A DEQ-approved alternative evaluation method assessment may be used to substitute for one of the conventional evaluation method assessments. If a commingled recycling processing facility utilizes a DEQ-approved alternative evaluation method assessment for data-generation purposes, the facility must still perform at least one unannounced conventional evaluation method assessment within each five-year program plan period, for comparative data purposes.

(d) At any point, a commingled recycling processing facility can request the use of an alternative evaluation method. If a facility is to use an alternative evaluation method to provide data to DEQ, the processor must perform a comparison study to demonstrate that the alternative evaluation method produces similar or better quality data than the conventional evaluation method. The comparison study, including comparison methodology, must be reviewed and approved by DEQ. The commingled recycling processing facility is responsible for covering the costs associated with the undertaking of such a comparison study.

(e) For all assessments undertaken, material samples to be assessed will be pulled from the material stream as it enters the commingled recycling processing facility’s balers or from finished bales.

(f) DEQ, or a contractor to DEQ, may use one or more sampling events to evaluate compliance with performance standards and to determine a commingled recycling processing facility's capture rate across all commodities and the average outbound contamination rate.

(g) A commingled recycling processing facility must make material available for on-site or off-site assessment. DEQ, or a contractor to DEQ, must be on-site to observe selection of material to be assessed. If baled material from a permitted commingled recycling processing facility is to be assessed, DEQ, or a contractor to DEQ will select the bales to be assessed, not the processor.

(h) If multiple site visits are necessary to assess compliance with the capture rate and outbound contamination rate-based performance standards, DEQ will determine the need and schedule for those follow-up sampling assessments. Processing facilities must cover costs associated with any follow-up assessments, in accordance with protocols approved by DEQ. All follow-up assessments will be subject to observation by DEQ.

(4) Plans and Specifications.

(a) Plans and specifications for a commingled recycling processing facility shall include, but not be limited to, the location and physical features of the facility such as contours, surface drainage control, access and on-site roads, traffic routing, landscaping, weigh stations, fences and specifications for solid waste handling equipment, truck and area washing facilities and wash water disposal, and water supply and sanitary waste disposal.

(b) Inbound and outbound contamination levels. In addition to describing normal facility operations, the facility operations plan must include, among other things, a description of how the facility will implement the forms and procedures established by the Department for evaluating and describing levels of inbound and outbound contamination as required by ORS 459A.955. The facility operations plan must be submitted to the department for approval.

(5) Design and Construction:

(a) The design and construction of all facilities must be in accordance with standards in this rule and must be approved by the Department.

(b) Waste Water Discharges. There must be no discharge of waste water or leachate to waters of the state except in accordance with a permit from the Department, issued under ORS 468B.050;

(c) Groundwater. The facility must not cause an adverse impact to groundwater under OAR 340 Division 40.

(d) Access Roads. All weather roads must be provided from the public highways or roads, to and within the disposal site and shall be designed and maintained to prevent traffic congestion, traffic hazards and dust and noise pollution;

(e) Drainage. The site must be designed such that surface drainage will be diverted around or away from the operational area of the site;

(f) Fire Protection. Fire protection must be provided in accordance with plans approved in writing by the Department and in compliance with state and local fire regulations;

(6) Operations:

(a) All facilities must be operated to meet the following standards.

(b) Storage:

(A) All solid waste deposited at the site must be confined to the designated dumping or storage area;

(B) Accumulation of solid wastes must be kept to minimum practical quantities.

(c) Nuisance Conditions:

(A) Blowing debris must be controlled such that the entire disposal site is maintained free of litter;

(B) Dust, malodors and noise must be controlled to prevent air pollution or excessive noise as defined by ORS Chapters 467 and 468A and rules and regulations adopted pursuant thereto.

(d) Health Hazards. Rodent, bird and insect control measures must be provided, sufficient to prevent vector production and sustenance. Any other conditions which may result in transmission of disease to man and animals must be controlled;

(e) Recordkeeping and Reporting.

(A) All facilities must maintain records and submit reports to the Department as required by the Department demonstrating compliance with conditions of a permit, ORS 459, ORS 459A or OAR Chapter 340, Divisions 90 and 93 through 97.

(B) All facilities must maintain records in accordance with Department established procedures and provide reports to the Department as required, including record keeping and reporting for waste acceptance, waste disposal, capture rates, outbound contamination levels and responsible end markets.

(C) In the case of a change in ownership of the permitted facility, the new permittee is responsible for ensuring that the records are transferred from the previous permittee and maintained for the number of years required by the department.

**Statutory/Other Authority:** ORS 459.045, 459A.025, 459A.955 & 468.020

**Statutes/Other Implemented:** ORS 459.005, 459.015 & 459.205

**OAR 340-090-0820**

**Commingled Recycling Processing Facility Certification Program**

(1) In accordance with ORS 459A.905(2)(a)(B), a local government, the local government's service provider or a commingled recycling reload facility may only deliver to a commingled recycling processing facility located outside of this state commingled recyclables that were collected pursuant to the uniform statewide collection list established under ORS 459A.914 if the commingled recycling processing facility is certified pursuant to this rule or can certify that it meets the requirements of ORS 459A.955 or 459A.956, even though the facility does not hold a certificate

(2) In any given calendar year, the requirement for a certification in Section 1 only applies to a commingled recycling processing facility that has accepted at least 2,500 tons of commingled recyclable material that originated in this state in that calendar year.

(3) A commingled recycling processing facility may obtain a third-party certification from an entity on a list approved by DEQ pursuant to Section (4) or a commingled recycling processing facility may self-certify that it meets the certification requirements of this rule.



(4) DEQ shall develop a list of approved third parties to issue certificates.

(5) Certification Standards. A commingled recycling processing facility that requires certification pursuant to Section 2 must meet the requirements of ORS 459A.955(2) and related rules to be certified under this rule. A commingled recycling processing facility shall demonstrate meeting those requirements as follows:

(a) for the requirements of ORS 459A.955(2)(d) and (e) by complying with all relevant requirements of the jurisdiction where it is located.

(b) the requirements of ORS 459A.955(2)(f), apply to all inbound materials originating from this state.

(c) For capture rates and outbound contamination standards, as described in ORS 459A.955(2)(a) and (c) and OAR [XX], the amount of material assessed will be the percentage of the total tons of inbound commingled recyclable material that originated from this state in the last calendar year. The percentage requirement must be determined separately for each commodity marketed by the commingled recycling processing facility.

(d) For responsible end market disposition and reporting requirements under 955(2)(b) and (h)) and OAR 340-096-0310, the amount of material assessed will be the same percentage calculated for that commodity under subsection (c).

(6) A commingled recycling processing facility certified under this rule must receive periodic assessments of compliance with capture rates and outbound contamination requirements as provided by this Section.

(a) For the purposes of this section, “conventional evaluation method assessment” means the manual sorting of material, whether the material to be sorted is in loose or baled form, to determine a facility’s compliance with the capture rate and outbound contamination rate performance standards.

(b) For the purposes of this section, “alternative evaluation method assessment” means the use of a method other than manual sorting of material, to determine a facility’s compliance with the capture rate and outbound contamination rate performance standards. An example of such a method is use of artificial intelligence technology.

(c) A commingled recycling processing facility must contract with a DEQ-approved third-party certifier to conduct periodic assessments using a methodology established by DEQ. Such assessments shall meet the requirements established under OAR 340-096-0300 (3)(c)(d)(e) and (g) and as provided by this section.

(d) The percentage of material assessed will be the percentage of the commingled recycling processing facility’s total annual tonnage that originated from this state. The commingled recycling processing facility will be responsible for selecting the percentage of loose material or bales to be sorted by the third-party certifier or a contractor to the third-party certifier, though the third-party certifier must be onsite when selection of material happens.

(e) A third-party certifier, or a contractor to a third-party certifier, may use one or more sampling events to evaluate compliance with performance standards and to determine a commingled recycling processing facility’s capture rate across all commodities and the average outbound contamination rate.

(f) If multiple site visits are necessary to assess compliance with the capture rate and outbound contamination rate-based performance standards, DEQ will work with the third-party certifier to determine the need and schedule of any required follow-up sampling assessments.

(g) DEQ will arrange and be responsible for costs related to the first unannounced conventional evaluation method assessments conducted by a third-party certifier or a contractor to a third-party certifier. If the assessment determines the commingled recycling processing facility fails to meet the established performance standards for capture rates and outbound contamination, follow-up assessments will be undertaken, in accordance with protocols and a schedule to be approved by DEQ. The commingled recycling processing facility shall implement the follow-up assessment in accordance with the DEQ approved protocols and schedule. All follow-up assessments will be subject to observation by a third-party certifier.

(7) Material Disposition Reporting. A service provider or a commingled recycling reload facility that transports materials collected pursuant to the uniform statewide collection list established under ORS 459A.914 to a commingled recycling processing facility located outside of this state that meets the requirements of this rule must obtain material disposition information from that facility for the materials that originated in this state. A service provider or a commingled recycling reload facilities shall report such information to DEQ on a schedule consistent with ORS 459A.887(6).

(8) The requirements of this rule are effective on July 1, 2025

#### **OAR 340-090-0840**

### **Living Wage and Supportive Benefits**

For purposes of ORS 459A.905(2)(c) and related statutes and rules the terms below in Section (1) to (3) have the meanings provided by this rule:

(1) A worker is 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 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 sort line workers and persons performing other materials processing tasks. This definition does not include facility administrative or clerical workers, truck drivers, maintenance or other similar occasional workers at any commingled recycling processing facility.

(2) A living wages is a wage one full-time worker must earn, calculated on an hourly basis, to cover the cost in the place where they live of their household's minimum basic need without additional income or subsidization. The location of the commingled recycling processing facility where a worker works shall be used to calculate the living wage. The calculated hourly living wage applicable for the purposes of this rule is included as Table A in the appendix for this rule section.

(3) Supportive benefits are benefits provided to a worker to support their health and well-being, including health insurance, disability insurance, life insurance and paid time off.

(a) Health insurance coverage must meet the requirements of Paragraphs (A) to (D) of this Subsection.

(A) Health insurance coverage must be provided to all workers regardless of status as part-time or full time based on weekly hours worked. Coverage options may allow for tiered benefits based on full- or part-time status, as defined by state law for the specific facility.

(B) Health insurance coverage must comply with, or exceed, all federal and state law requirements, including the Federal Patient Protection and Affordable Care Act of 2010, 42 USC 18001, et. seq., requirements for affordability and minimum value plans.

(C) Health insurance coverage must include vision and dental benefits.

(D) Health insurance coverage must include optional coverage available to a worker's family members as defined in ORS 657B.010(19).

(b) Disability insurance must include short-term and long-term options. Disability insurance shall incorporate coverage for accidental death and dismemberment consistent with insurance industry standards at the time of the worker's employment, unless such coverage is otherwise included in the life insurance benefits.

(c) Life insurance coverage of at least \$10,000 must be provided at no cost to the worker, with additional optional coverage available to purchase by the worker.

(d) If term life insurance is provided, the term of coverage must be no less than five years.

(e) Paid time off shall include sick leave, vacation/discretionary leave and holiday pay and shall consist of at least the following:

(A) At least 10 vacation/discretionary days (80 hours) per calendar year for workers working full-time at the facility, with full-time as defined in OAR **471-030-0022**;

(B) At least eight vacation/discretionary days (64 hours) per calendar year for workers working less than full-time at the facility, as defined by OAR **471-030-0022**;

(C) No fewer than five sick days (40 hours) per calendar year for all workers, regardless of full or part-time status; and

(D) Paid holidays equivalent to those recognized annually by the State of Oregon, as defined by ORS 187.010 and ORS 187.020, for all workers regardless of full or part-time status. Paid holidays may be taken as days off or as supplemental pay (eight hours of work).

**Table A: OAR 340-000-0840 -Living Wage and Supportive Benefits**

**Table A: Calculated living wage for Commingled Recycling Processing Facilities used by Oregon local governments<sup>1</sup>**

<b>Facility location: State (county)</b>	<b>Calculated hourly living wage</b>
California (Humboldt)	25.82
Oregon (Clackamas)	31.69
Oregon (Klamath)	23.35
Oregon (Lane)	26.94
Oregon (Marion)	25.76
Oregon (Multnomah)	31.90
Oregon (Washington)	32.58
Washington (Clark)	28.42

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<sup>1</sup> Table A shows the calculated hourly living wage for the counties in which the commingled recycling processing facilities used by Oregon’s local governments at the time of rule adoption. Any new or relocated facilities subject to these rules would be required to use the county-specific calculated hourly living wage if listed above or calculate the hourly living wage based on the figures published by the MIT Living Wage Calculator. The calculation is equal to 0.35 multiplied by the county-specific wage figure for 1 worker/0 dependents added to 0.65 multiplied by the county-specific wage figure for 2 workers/2 dependents.

**Division 97**  
**SOLID WASTE: PERMIT FEES**

**340-097-0001**

**Applicability**

This division applies to persons owning or operating or applying to DEQ to own or operate, a municipal solid waste landfill, a non-municipal land disposal site, an energy recovery facility or an incinerator receiving solid waste delivered by the public or by a solid waste collection service, a composting facility, a sludge disposal site, a land application disposal site, a transfer station, a material recovery facility, a [commingled recycling processing facility, a limited sort facility](#), a solid waste treatment facility, a solid waste conversion technology facility or any other solid waste disposal site required to obtain a solid waste permit from DEQ. It also applies to persons who transport solid waste out of Oregon for final disposal or destruction at a disposal site that receives domestic solid waste, construction and demolition waste, land clearing debris, or waste tires for final disposal or destruction. This division also applies to persons engaged in or applying to DEQ to collect waste tires, transport waste tires, or collect and transport waste tires for the purpose of storage, processing or disposal and to waste tire storage sites requiring a permit from DEQ.

**Statutory/Other Authority:** ORS 459.045, 459A.100 - 459A.120 & 468.020

**Statutes/Other Implemented:** ORS 459.235 & 459.730

**History:**

DEQ 11-2023, amend filed 07/21/2023, effective 07/21/2023

DEQ 2-2016, f. & cert. ef. 2-4-16

DEQ 7-2013, f. & cert. ef. 8-29-13

DEQ 10-1994, f. & cert. ef. 5-4-94

DEQ 5-1993, f. & cert. ef. 3-10-93

**340-097-0110**

**Solid Waste Permit and Disposal Fees**

(1) Each person required to have a solid waste disposal permit, waste tire storage or waste tire carrier permit is subject to the following fees:

(a) An application processing fee for new facilities and new waste tire carriers which must be submitted with the application for a new permit as specified in OAR 340-097-0120(2); and

(b) A solid waste permit compliance fee as listed in OAR 340-097-0120(6).

(2) Each disposal site receiving domestic solid waste for final disposal or destruction must pay the per-ton solid waste disposal fees on solid waste as specified in OAR 340-097-0120(7). Beginning April 1, 2019, and first payable beginning July 1, 2019, land disposal sites receiving construction and demolition wastes, land clearing debris, or tires for final disposal or destruction must also pay this fee.

(3) Oregon solid waste disposed of out-of-state. A person who transports solid waste, generated in Oregon, for final disposal or destruction at a disposal site located outside of Oregon that

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receives domestic solid waste, or beginning April 1, 2019, a land disposal site that receives construction and demolition waste, land clearing debris, or waste tires for final disposal or destruction, must pay the per-ton solid waste disposal fees as specified in OAR 340-097-0120(7).

(a) For purposes of OAR 340-097-0110 and 340-097-0120(7), a person is the transporter if the person transports or arranges for the transport of solid waste out of Oregon for final disposal or destruction at a disposal site that receives domestic solid waste, or beginning April 1, 2019, a land disposal site that receives construction and demolition waste, land clearing debris, or waste tires for final disposal or destruction, and is:

(A) A solid waste collection service or any other person who hauls, under an agreement, solid waste out of Oregon;

(B) A person who hauls his or her own industrial, commercial or institutional waste or other waste such as cleanup materials contaminated with hazardous substances;

(C) An operator of a transfer station, when Oregon waste is delivered to a transfer station located in Oregon and from there is transported out of Oregon for final disposal or destruction;

(D) A person who authorizes or retains the services of another person for disposal of cleanup materials contaminated with hazardous substances; or

(E) A person who transports infectious waste.

(b) Notification requirement:

(A) Before transporting or arranging for transport of solid waste for final disposal or destruction out of Oregon to a disposal site that receives domestic solid waste, or beginning April 1, 2019, to a land disposal site that receives construction and demolition wastes, land clearing debris, or waste tires, the person identified in subsection (3)(a) must notify DEQ in writing on a form DEQ provides.

(B) The notification must state whether the person will transport the waste on an on-going basis.

(c) As used in this section, "person" does not include an individual transporting only the individual's own residential solid waste to a disposal site located out of the state.

(4) Fees. The solid waste permit compliance fee must be paid for each year a disposal site, waste tire carrier or waste tire storage site requiring a solid waste permit is in operation or under permit. The fee period is prospective and is as follows:

(a) New sites requiring a solid waste permit:

(A) Any new disposal site must pay a solid waste permit compliance fee 30 days after the end of the calendar quarter in which solid waste is received at the facility, except as specified in paragraph (4)(a)(B), (C) and (D);

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(B) A new disposal site that receives less than 1,000 tons of solid waste per year, other than a transfer station, material recovery facility, commingled recycling processing facility, limited sort facility or composting facility, must pay the entire permit compliance fee for the first year's operation if the facility is placed into operation on or before September 1. A new facility placed into operation after September 1 will not owe a permit compliance fee until the following January 31. An application for a new disposal site receiving less than 1,000 tons of solid waste a year must include the applicable permit compliance fee for the first year of operation;

(C) A new industrial solid waste disposal site, sludge or land application disposal site or solid waste treatment facility receiving more than 1,000 but less than 20,000 tons of solid waste a year must pay a solid waste permit compliance fee on January 31 following the calendar year in which the facility is placed into operation;

(D) A new transfer station, material recovery facility, commingled recycling processing facility, limited sort facility or composting facility must pay the entire permit compliance fee for the first fiscal year's operation, based on the state's fiscal year, if the facility is placed into operation on or before April 1. Any new facility placed into operation after April 1 will not owe a permit compliance fee until DEQ's annual billing for the next fiscal year. An application for a new transfer station, material recovery facility or composting facility must include the applicable permit compliance fee for the first year of operation.

(b) New waste tire carriers and waste tire storage sites shall pay the entire permit compliance fee for the first fiscal year's operation, based on the state's fiscal year, if the facility is placed into operation on or before April 1. Any new facility or carrier placed into operation after April 1 will not owe a permit compliance fee until DEQ's annual billing for the next fiscal year. An application for a new waste carrier or waste tire storage site shall include the applicable permit compliance fee for the first year of operation.

(c) Existing permitted sites. Any existing disposal site or waste tire storage site that is in operation and is permitted to receive or receives solid waste in a calendar year must pay the solid waste permit compliance fee for that year as specified in OAR 340-097-0120(6)(a), (b), and (c). A facility is deemed to be an "existing permitted site" from the time of permit issuance;

(d) Existing permitted waste tire carriers. Any existing waste tire carrier that is permitted to collect and transport waste tires in a calendar year shall pay the waste tire carrier permit compliance fees for that year as specified in OAR 340-097-0120(6). A waste tire carrier is deemed to be an "existing waste tire carrier" from the time of permit issuance;

(e) Closed sites. If a land disposal site stops receiving waste before April 1 of the fiscal year in which the site permanently ceases active operations, based on the state's fiscal year, the permittee must pay the solid waste permit compliance fee for the "year of closure" OAR 340-097-0120(6)(d)(A) specifies as well as the permit compliance fee the permittee pays quarterly based on the waste received in the previous calendar quarters. If a land disposal site has permanently ceased receiving waste and the site is closed, a solid waste permittee must pay the solid waste permit compliance fee for closed sites as specified in OAR 340-097-0120(6)(d);

(f) DEQ may alter the due date for the solid waste permit compliance fee upon receipt of a justifiable request from a permittee.

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(5) Tonnage reporting. The permit compliance fee and per-ton solid waste disposal fees, if applicable, must be submitted together with a form DEQ approves. Information reported must include the amount and type of solid waste and any other information DEQ requires to substantiate the tonnage or to calculate the state material recovery rate.

(6) Calculation of tonnage. Permittees and registrants are responsible for accurately calculating solid waste tonnage. For purposes of determining appropriate fees under OAR 340-097-0120(6) and (7), annual tonnage of solid waste received must be calculated as follows:

(a) Municipal solid waste facilities. Annual tonnage of solid waste received at municipal solid waste facilities, including construction and demolition sites and municipal solid waste composting facilities, receiving 50,000 or more tons annually must be based on weight from certified scales. When certified scales are required, all solid waste received at the facility for disposal must be weighed at the facility's scales, except as DEQ otherwise approves in writing. If certified scales are required but are temporarily not functioning, all solid waste received at the facility must either use other certified scales in the area or estimate tonnage as specified in this section. If certified scales are not required, estimated annual tonnage for municipal solid waste, including that at municipal solid waste composting facilities, will be based upon 300 pounds per cubic yard of uncompacted waste received, and 700 pounds per cubic yard of compacted waste received. If yardage is not known, the solid waste facility may use one ton per resident in the service area of the disposal site, unless the permittee demonstrates a more accurate estimate. For other types of wastes received at municipal solid waste sites and where certified scales are not required or not available, the conversions and provisions in subsection (b) must be used;

(b) Industrial facilities. Annual tonnage of solid waste received at industrial facilities receiving 50,000 or more tons annually must be based on weight from certified scales. When certified scales are required, all solid waste received at the facility must be weighed at the facility's scales, except as DEQ otherwise approves in writing. If certified scales are required but are temporarily not functioning, all solid waste received at the facility must either use other certified scales in the area or estimate tonnage as specified in this section. If certified scales are not required, industrial sites must use the following conversion factors to determine tonnage of solid waste disposed. Composting facilities must use the following conversion factors for those materials appropriate for composting:

(A) Asbestos: 500 pounds per cubic yard;

(B) Pulp and paper waste other than sludge: 1,000 pounds per cubic yard;

(C) Construction, demolition and land clearing wastes: 1,100 pounds per cubic yard;

(D) Wood waste:

(i) Wood waste, mixed, including log sort waste (as defined in OAR 340-093-0030): 1,200 pounds per cubic yard;

(ii) Wood waste including scrap lumber, pallets, wood from construction and demolition activities: 250 pounds per cubic yard;

(iii) Wood chips, green: 473 pounds per cubic yard;



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(iv) Wood chips, dry: 243 pounds per cubic yard;

(v) Sawdust, wet: 530 pounds per cubic yard;

(vi) Sawdust, bone dry: 275 pounds per cubic yard.

(E) Yard debris:

(i) Grass clippings: 950 pounds per cubic yard;

(ii) Leaves: 375 pounds per cubic yard;

(iii) Compacted yard debris: 640 pounds per cubic yard; and

(iv) Uncompacted yard debris: 250 pounds per cubic yard.

(F) Manure, sludge, septage, grits, screenings and other wet wastes: 1,600 pounds per cubic yard;

(G) Food waste: 700 pounds per cubic yard;

(H) Ash and slag: 2,000 pounds per cubic yard;

(I) Contaminated soils: 2,400 pounds per cubic yard;

(J) Asphalt, mining and milling wastes, foundry sand, silica: 2,500 pounds per cubic yard;

(K) For wastes other than the above, the permittee or registrant must determine the density of the wastes subject to DEQ's written approval;

(L) As an alternative to the above conversion factors, the permittee or registrant may determine the density of their own waste, subject to DEQ's written approval.

(7) DEQ may refund the application processing fee, in whole or in part, after taking into consideration any costs DEQ may have incurred in processing the application, when submitted with an application if either of the following conditions exists:

(a) DEQ determines that no permit is required;

(b) The applicant withdraws the application before DEQ has granted or denied preliminary approval or, if no preliminary approval has been granted or denied, DEQ has approved or denied the application.

(8) Exemptions:

(a) Persons treating petroleum contaminated soils are exempt from the application processing and renewal fees for a Letter Authorization if the following conditions are met:

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(A) The soil is being treated as part of a site cleanup authorized under ORS Chapters 465 or 466; and

(B) DEQ and the applicant for the Letter Authorization have entered into a written agreement under which the applicant must pay for costs DEQ incurred for oversight of the cleanup and for processing of the Letter Authorization.

(b) Persons to whom a Letter Authorization has been issued are not subject to the solid waste permit compliance fee.

(9) All fees must be made payable to the Department of Environmental Quality.

(10) Submittal schedule:

(a) DEQ bills the solid waste permit compliance fee to the holder of the following permits: transfer station, material recovery facility, commingled recycling processing facility, limited sort facility, composting facility, waste tire storage site, waste tire carrier and closed solid waste disposal site. The fee period is the state's fiscal year, July 1 through June 30, and the fee is due annually by the date indicated on the invoice. Any "year of closure" pro-rated fee will be billed to the permittee of a closed site together with the site's first regular billing as a closed site;

(b) For solid waste disposal site permit holders other than those in subsection (10)(a), DEQ does not bill the solid waste permit compliance fee to the permittee. The permittee must self-report these fees to DEQ, under sections (4) and (5). The fee period is either the calendar quarter or the calendar year, and the fees are due to DEQ as follows:

(A) For any disposal site required to pay the per-ton fee on any solid waste as specified in OAR 340-097-0120(7) (e.g., landfills, municipal waste incinerators, municipal energy recovery facilities, conversion technology facilities, and solid waste treatment facilities that receive domestic solid waste for final disposal or destruction), plus construction and demolition and tire landfills: on the same schedule as specified in subsection (10)(c);

(B) For industrial solid waste disposal sites, sludge or land application disposal sites and other disposal sites not required to pay the per-ton fee on solid waste as specified in OAR 340-097-0120(7), except construction and demolition and tire landfills:

(i) For sites receiving over 20,000 tons of waste a year: quarterly, on the 30th day of the month following the end of the calendar quarter; or

(ii) For sites receiving 20,000 tons of waste a year or less: annually, on the 31st day of January;

(iii) For a site that has received less than 20,000 tons of waste in past years but exceeds that amount in a given year, DEQ will in general grant a one-year delay before the site is required to begin submitting permit fees on a quarterly basis. If the site appears likely to continue to exceed the 20,000 annual ton limit, then DEQ will require the site to report tonnage and submit applicable permit fees on a quarterly basis.

(c) DEQ does not bill the per-ton solid waste disposal fees on solid waste and the Orphan Site Account fee. They must be paid on the following schedule:

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(A) Quarterly, on the 30th day of the month following the end of the calendar quarter; or

(B) Annually, on the 31st day of January, for solid waste disposal site permit holders for sites receiving less than 1,000 tons of solid waste a year.

(d) The fees on Oregon solid waste disposed of out-of-state must be paid to DEQ quarterly on the 30th day of the month following the end of the calendar quarter or on the schedule specified in OAR 340-097-0120(7)(d)(C). The fees must be submitted together with a form DEQ approves, which must include the amount of solid waste, type, county of origin of the solid waste, and state to which the solid waste is being transported for final disposal.

**Statutory/Other Authority:** ORS 459.045, 459.235, 459.236, 459A.025, 459A.110, 459A.115 & 468.065

**Statutes/Other Implemented:** ORS 459.235, 459.236, 459A.110 & 459A.115

**History:**

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DEQ 2-2016, f. & cert. ef. 2-4-16

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DEQ 6-2009, f. & cert. ef. 9-14-09

DEQ 27-1998, f. & cert. ef. 11-13-98

DEQ 17-1997, f. & cert. ef. 8-14-97

DEQ 9-1996, f. & cert. ef. 7-10-96

DEQ 10-1994, f. & cert. ef. 5-4-94

DEQ 23-1993, f. 12-16-93, cert. ef. 1-1-94

DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0115

DEQ 8-1992, f. & cert. ef. 4-30-92

DEQ 28-1991, f. & cert. ef. 12-18-91

DEQ 12-1991(Temp), f. & cert. ef. 8-2-91

DEQ 45-1990, f. & cert. ef. 12-26-90

DEQ 3-1984, f. & ef. 3-7-84

**340-097-0120**

**Permit/Registration Categories and Fee Schedule**

(1) For purposes of OAR chapter 340, division 97:

(a) A "new facility" means a facility at a location not previously used or permitted, and does not include an expansion to an existing permitted site;

(b) An "off-site industrial facility" means all industrial solid waste disposal sites other than a "captive industrial facility;"

(c) A "captive industrial facility" means an industrial solid waste disposal site where the permittee is the owner and operator of the site and is the generator of all the solid waste received at the site.

(d) As used in this rule, the term "mixed solid waste" means solid wastes that include paper, plastic, and other materials at least partly made up of domestic waste, where the materials have not been separated from each other.

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(2) Application Processing Fee. Except as provided in sections (3), (4), and (5) with respect to composting facilities, an application processing fee must be submitted with each application for a new facility, or waste tire carrier permit, including application for preliminary approval pursuant to OAR 340-093-0090. The amount of the fee depends on the type of facility and the required action as follows:

(a) A new municipal solid waste landfill facility, construction and demolition landfill, incinerator, energy recovery facility, solid waste treatment facility, off-site industrial facility or sludge disposal facility:

(A) Designed to receive over 7,500 tons of solid waste per year: \$10,000;

(B) Designed to receive 7,500 tons and less of solid waste per year: \$5,000.

(b) A new captive industrial facility, other than a transfer station or material recovery facility: \$1,000;

(c) A new transfer station or material recovery facility:

(A) Receiving over 50,000 tons of solid waste per year: \$500;

(B) Receiving over 10,000 and less than or equal to 50,000 tons of solid waste per year: \$200;

(C) Receiving 10,000 tons and less of solid waste per year: \$100.

(d) Letter Authorization under OAR 340-093-0060:

(A) New site: \$500;

(B) Renewal: \$500.

(e) Permit Exemption Determination under OAR 340-093-0080(2): \$500.

(f) Beneficial use of solid waste application and reporting fees under OAR 340-093-0260 through 340-093-0290:

(A) The review of an annual or other report required under a beneficial use determination: \$250;

(B) A Tier One beneficial use determination: \$1,000;

(C) A Tier Two beneficial use determination: \$2,000;

(D) A Tier Three beneficial use determination: \$5,000;

(E) Annual extension to a demonstration project authorization: \$1,000.

(g) A new conversion technology facility:

(A) Designed to receive over 7,500 tons of feedstocks per year: \$2,000;

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(B) Designed to receive 7,500 tons or less of feedstocks per year: \$1,500.

(h) A new waste tire storage permit: \$250.

(i) A new waste tire carrier permit: \$25

(3) Composting Facility Screening Fee. Every composting facility that is required to comply with OAR 340-096-0080 must pay a screening fee of \$150. The fee must be submitted with the application for screening, as provided in OAR 340-096-0080(1).

(4) Facility Plan Review and Approval Fee.

(a) Every composting facility that is required to comply with OAR 340-096-0090 must pay an Operations Plan Approval fee as provided below. The fee must be submitted with the proposed Operations Plan, as provided in OAR 340-096-0090(1). Agricultural composting facilities for which the Oregon Department of Agriculture is providing facility plan review and approval are not required to pay this fee.

(A) For facilities composting over 100 tons and less than or equal to 3,500 tons of feedstocks per year: \$500;

(B) For facilities composting over 3,500 tons and less than or equal to 7,500 tons of feedstocks per year: \$750;

(C) For facilities composting over 7,500 tons and less than or equal to 10,000 tons of feedstocks per year: \$1000;

(D) For facilities composting over 10,000 tons and less than or equal to 50,000 tons of feedstocks per year: \$2,000;

(E) For facilities composting over 50,000 tons of feedstocks per year: \$5,000.

(b) Every conversion technology facility that is required to comply with OAR 340-096-0180 must pay a fee as provided below. The fee must be submitted with the proposed Operations Plan, as provided in OAR 340-096-0180.

(A) For facilities designed to receive 3,500 tons of feedstocks or less per year: \$1,000;

(B) For facilities designed to receive over 3,500 tons but no more than 7,500 tons of feedstocks per year: \$1,500;

(C) For facilities designed to receive over 7,500 tons but no more than 20,000 tons of feedstocks per year: \$2,200;

(D) For facilities designed to receive over 20,000 tons but no more than 50,000 tons of feedstocks per year: \$3,000;

(E) For facilities designed to receive over 50,000 tons of feedstocks per year: \$5,000.

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(5) Composting Facility Engineering Review Fee. Every composting facility that requires DEQ review of engineering plans and specifications under OAR 340-096-0130 must pay a fee of \$500. This fee is in addition to the fee required by section (4). Agricultural composting facilities for which the Oregon Department of Agriculture provides review of engineering plans and specifications are not required to pay this fee.

(6) Solid Waste Permit Compliance Fee. The following is the fee schedule including base per-ton rates to be used to determine the solid waste permit compliance fee. The per-ton rates are based on the estimated solid waste to be received at all permitted solid waste disposal sites and on DEQ's Legislatively Approved Budget. DEQ reviews annually the amount of revenue generated by this fee schedule. To determine the solid waste permit compliance fee, DEQ may use the base per-ton rates or any lower rates if the rates generate more revenue than provided in DEQ's Legislatively Approved Budget. Any increase in the base rates must be established by rule. In any case where a facility fits into more than one category, the permittee must pay only the highest fee:

(a) All facilities accepting or permitted to accept solid waste for final disposal or destruction, excluding transfer stations, material recovery facilities, commingled recycling processing facilities, limited sort facilities and composting facilities:

(A) The greater of \$200; or

(B) A solid waste permit compliance fee based on the total amount of solid waste received at the facility in the previous calendar quarter or year, as applicable, at the following rate:

(i) All municipal landfills, construction and demolition landfills, industrial landfills, sludge disposal facilities, incinerators and solid waste treatment facilities: \$.21 per ton through June 30, 2016, and \$.58 per ton beginning July 1, 2016;

(ii) Energy recovery facilities. \$.13 per ton through June 30, 2016, and \$.58 per ton beginning July 1, 2016; and

(iii) Conversion technology facilities: \$.10 per ton through June 30, 2016, and \$.58 per ton beginning July 1, 2016.

(C) If DEQ does not require a disposal site, other than a municipal solid waste facility, to monitor and report volumes of solid waste collected, the solid waste permit compliance fee may be based on the estimated tonnage received in the previous quarter or year.

(D) Ash or residue received by a landfill from an energy recovery facility, incinerator, or conversion technology facility is not subject to the solid waste permit compliance fee paid on a per-ton basis under paragraph (B) if the energy recovery facility, incinerator, or conversion technology facility has paid this fee on all incoming waste. Alternatively, DEQ can make arrangements to split this fee between a landfill and an energy recovery facility, incinerator, or conversion technology facility, based on the proportion by weight of the ash and residue received by the landfill and the total weight of incoming waste received by the energy recovery facility, incinerator, or conversion technology facility.

(b) Transfer stations, material recovery facilities, commingled recycling processing facilities and limited sort facilities:

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(A) Facilities accepting over 50,000 tons of solid waste per year: \$1,000;

(B) Facilities accepting over 10,000 and less than or equal to 50,000 tons of solid waste per year: \$500;

(C) Facilities accepting 10,000 tons or less of solid waste per year: \$50.

(c) Composting facilities with a composting permit, except agricultural composting facilities for which the Oregon Department of Agriculture is providing facility oversight:

(A) Utilizing over 50,000 tons of feedstocks for composting per year: \$5,000;

(B) Utilizing over 7,500 and less than or equal to 50,000 tons of feedstocks for composting per year: \$1,000;

(C) Utilizing over 3,500 and less than or equal to 7,500 tons of feedstocks for composting per year: \$500;

(D) Utilizing over 100 tons and less than or equal to 3,500 tons of feedstocks for composting per year: \$100.

(d) Closed Disposal Sites:

(A) Year of closure. If a land disposal site stops receiving waste before April 1 of the fiscal year in which the site permanently ceases active operations, DEQ will determine a pro-rated permit compliance fee for those quarters of the fiscal year not covered by the permit compliance fee paid on solid waste received at the site. The pro-rated fee for the quarters the site was closed is based on the calculation in paragraph (B);

(B) Each land disposal site that closes after July 1, 1984: \$150 or the average tonnage of solid waste received in the three most active years of site operation multiplied by \$.025 per ton, whichever is greater; but the maximum permit compliance fee is \$2,500.

(e) Waste tire storage sites: \$250.

(f) Waste tire carrier: \$200.

(7) Per-ton solid waste disposal fees on solid waste. Each solid waste disposal site that receives domestic solid waste for final disposal or destruction, and each person transporting solid waste out of Oregon for disposal at a disposal site that receives domestic solid waste, except as excluded under OAR 340-097-0110(3)(c), must submit fees to DEQ for solid waste received at the disposal site or transported out of Oregon. Beginning April 1, 2019, each solid waste land disposal site that receives construction or demolition waste, land clearing debris, or tires for final disposal or destruction, and each person transporting solid waste out of Oregon for disposal at a land disposal site that receives construction or demolition waste, land clearing debris, or tires for final disposal or destruction, except as excluded under OAR 340-097-0110(3)(c), must also submit fees to DEQ for solid waste received at the disposal site or transported out of Oregon.

(a) These fees include:

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(A) A fee of \$.81 per ton through March 31, 2016, raised to \$1.11 per ton beginning April 1, 2016, through March 31, 2019, and raised to \$1.18 per ton beginning April 1, 2019;

(B) An additional per-ton fee of \$.13 for the Orphan Site Account.

(b) Tons subject to these fees include:

(A) All solid wastes landfilled, incinerated without energy recovery or treated for disposal by an Oregon disposal site that receives domestic solid waste, except as excluded in subsections (c) and (f);

(B) All Oregon solid wastes that are transported out-of-state for disposal or destruction at a disposal site that receives domestic solid waste, except as excluded under OAR 340-097-0110(3)(c) and subsections (c) and (f);

(C) Mixed solid wastes that are processed by a conversion technology facility, burned for energy recovery, or composted by an Oregon disposal site that receives domestic waste;

(D) Mixed solid waste that includes at least some domestic solid waste, that has been processed into refuse-derived fuel to be burned for energy recovery by a facility that does not have a solid waste permit, or that does not pay per-ton fees as specified in this section;

(E) Beginning April 1, 2019, all solid wastes landfilled at an Oregon land disposal site that receives construction or demolition waste, land clearing debris, or tires for final disposal or destruction, except as excluded in subsections (c) and (f); and

(F) Beginning April 1, 2019, all Oregon solid wastes that are transported out-of-state for disposal at a land disposal site that receives construction or demolition waste, land clearing debris, or tires for final disposal or destruction, except as excluded in subsections (c) and (f).

(c) Tons not subject to these fees include:

(A) Through March 31, 2019, all solid wastes received at a facility that does not receive domestic solid waste;

(B) Beginning April 1, 2019, all solid wastes received at a facility that does not receive domestic solid waste or construction or demolition waste, land clearing debris, or tires;

(C) Source-separated recyclables or other materials separated and recycled from mixed solid waste, including separated organics that are composted;

(D) Construction and demolition wastes and industrial wastes that are processed by a material recovery facility or a conversion technology facility to make a fuel to be burned off-site for energy recovery (e.g., in a wood fuel boiler);

(E) All solid wastes sent by a disposal site to another disposal site, where the per-ton fees are paid by a disposal site that subsequently receives that waste;

(F) Solid waste used as daily cover at a landfill as described in subsection (f);



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(G) Ash from an energy recovery facility or incinerator that has paid these fees; and

(H) Sewage sludge or septic tank and cesspool pumpings.

(d) Submittal schedule:

(A) These per-ton fees must be submitted to DEQ quarterly. Quarterly remittals are due on the 30th day of the month following the end of the calendar quarter;

(B) Disposal sites receiving less than 1,000 tons of solid waste per year must submit the fees annually on January 31. If DEQ does not require the disposal site to monitor and report volumes of solid waste collected, the disposal site must submit with the fees an estimate of the population the disposal site serves;

(C) For solid waste transported out-of-state for disposal, the per-ton fees must be paid to DEQ quarterly. Quarterly remittals are due on the 30th day of the month following the end of the calendar quarter in which the disposal occurred. If the transportation is not on-going, the fee must be paid to DEQ within 60 days after the disposal occurs.

(e) Solid waste that is used as daily cover at a landfill in place of virgin soil is not subject to the per-ton solid waste fees in this section, provided that:

(A) The amount of solid waste used as daily cover does not exceed the amount needed to provide the equivalent of six inches of soil used as daily cover;

(B) If disposed of in Oregon, the solid waste is not being used on a trial basis, but instead has received necessary approvals from DEQ for use as daily cover; and

(C) If disposed of in a landfill outside of Oregon, the solid waste has received final approval from the appropriate state or local regulatory agency that regulates the landfill.

(f) For solid waste delivered to disposal facilities owned or operated by a Metropolitan Service District, the fees established in this section are levied on the district, not on the disposal site.

**Statutory/Other Authority:** ORS 459.045, 459.235 & 468.065

**Statutes/Other Implemented:** ORS 459.235, 459.236, 459A.110 & 459A.115

**History:**

DEQ 11-2023, amend filed 07/21/2023, effective 07/21/2023

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DEQ 4-2010, f. & cert. ef. 5-14-10

DEQ 6-2009, f. & cert. ef. 9-14-09

DEQ 27-1998, f. & cert. ef. 11-13-98

DEQ 17-1997, f. & cert. ef. 8-14-97

DEQ 9-1996, f. & cert. ef. 7-10-96

DEQ 10-1994, f. & cert. ef. 5-4-94

DEQ 23-1993, f. 12-16-93, cert. ef. 1-1-94

DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0120

DEQ 8-1992, f. & cert. ef. 4-30-92

DEQ 28-1991, f. & cert. ef. 12-18-91  
DEQ 12-1991(Temp), f. & cert. ef. 8-2-91  
DEQ 45-1990, f. & cert. ef. 12-26-90  
DEQ 14-1990, f. & cert. ef. 3-22-90  
DEQ 12-1988, f. & cert. ef. 6-14-88  
DEQ 3-1984, f. & ef. 3-7-84

**OAR 340-096-0310**

**Responsible End Markets**

(1) Responsible End Markets Standard.

(a) A commingled recycling processing facility must ensure that materials are marketed to responsible end markets, as provided by OAR 340-090-0670(1) and (2) and by completing the following two steps successively:

(A) First, a commingled recycling processing facility must perform a screening assessment, using a form provided by DEQ. The screening assessment will record and corroborate written verification from all entities described in OAR 340-090-0670(2)(a)(A)-(E) that receive material which originated at the recycling commingled processing facility that they meet the responsible standard provided by OAR 340-090-0670(2)(b).

(B) Next a commingled recycling processing facility must ensure that all entities described in OAR 340-090-0670(2)(a)(A)-(E) have been verified as responsible through a more detailed assessment against the responsible standard provided by OAR 340-090-0670(2), either through an annually-audited verification by a producer responsibility organization or through third-party certification from an Environmental Quality Commission-approved program, as provided by ORS 459A.955(2)(h)(A)(ii) and OAR 340-090-0670(3)(a)(B).

(b) For all materials delivered to end markets for recycling, a commingled recycling processing facility must complete the step provided by paragraph (a)(A)) prior to sending materials. For materials delivered to end markets for recycling on or before June 30, 2026, the step provided by paragraph (a)(B) must be completed by July 1, 2027. For materials delivered to end markets for recycling after June 30, 2026, a commingled recycling processing facility must complete the step provided by paragraph (a)(B) within 12 months of first delivery to the end market.

(c) Prior to sending a material to an end market or other downstream entity where the material would be processed by a non-mechanical recycling method, a commingled recycling processing facility must submit the following information to DEQ and receive advance approval:

(A) A description of how the proposed method will affect the ability of the material to be recycled into feedstock for the manufacture of new products;

(B) A description of how the proposed method will affect the types and amounts of plastic recycled for food and pharmaceutical-grade applications;

(C) A description of any applicable air, water and waste permitting compliance requirements; and

(D) An analysis of the environmental impacts for the proposed method compared to the environmental impacts of mechanical recycling, incineration and landfill disposal as solid waste.

(d) Each end market and other downstream entity that receives material collected for recycling in Oregon requires only one screening assessment and an annually-audited verification by a producer responsibility organization or third-party certification from an Environmental Quality Commission-approved program. Commingled recycling processing facilities and producer responsibility organizations that send materials to the same end markets or other downstream entities may coordinate their market assessment efforts to avoid duplication of effort.

(e) If a producer responsibility organization is granted variance for timing or required contents of a verification as part of the program plan review process, per OAR 340-090-0670(3)(e) or (h), the variance also applies to a commingled recycling processing facility that sends materials to the end market that is the subject of the variance.

### (3) Reporting.

(a) For all end markets and other downstream entities for which third-party certification from an Environmental Quality Commission-approved program has not been obtained, commingled recycling processing facilities must submit disposition reports that accurately report the final end market of the materials, in accordance with ORS 459A.955(2)(h)(A), to DEQ as follows:

(A) Disposition reports shall consist of disposition data provided in a manner proscribed by DEQ, as well as all screening assessments and certification reports conducted in a given quarter.

(B) Disposition reports must be submitted to DEQ on a quarterly basis, with reports due on the first of the month of each February, May, August, and November, covering the previous quarter of the calendar year.

- (i) The first disposition report is due November 1, 2025.
- (ii) No disposition reporting is required for materials that depart from a commingled recycling processing facility prior to July 1, 2025.
- (iii) If a commingled recycling processing facility wishes to send materials to an entity listed in OAR 340-090-0670(2)(a)(A)-(E) and for which no signed screening

assessment is on file with DEQ, the signed screening assessment for the entity may be submitted to DEQ outside of the reporting schedule.

(C) Disposition data must:

- (i) Indicate entities listed in OAR 340-090-0670(2)(a) that took possession of material marketed by the commingled recycling processing facility, including the business or person name, city, state, region, and country. The entities must be ordered sequentially along the pathway of disposition, with the end market positioned at the end; and
- (ii) Indicate the amount of material per category received in tons by each entity during the quarter, using the capture rate material categories in OAR 340-096-0300(2)(a). For materials without capture rate targets that are added to the uniform statewide collection list by a producer responsibility organization via its program plan per ORS 459A.914(4)(b)), DEQ will temporarily designate the reporting category until a capture rate target is set in a subsequent rulemaking. When reporting disposition for supply chains in which materials that originated with a permitted or certified processor and that are subject to the responsible end market obligation mix with non-obligated materials, such as material originating from another state, an accounting method that attributes outputs proportionally with inputs must be applied to attribute output volumes to Oregon. An example, of such a method is the controlled blending methodology or mass balance rolling average percentage methodology as defined in ISO 22095: 2020, CHAIN OF CUSTODY – GENERAL TERMINOLOGY AND MODELS.
- (iii) Contain comprehensive accounting for all destinations and tonnages described in subparagraphs (C)(i) and (ii) of this paragraph. Such accounting may exclude individual dispositions to end markets and other locations of final disposition of less than 1 percent of the total material in a given capture rate category handled by a given commingled recycling processing facility in a given quarter, provided that these exemptions comprise no more than 10 percent by weight of the total amount of that material sent elsewhere by the commingled recycling processing facility in a given quarter.

(D) A commingled recycling processing facility may designate other entities to report either a portion of or all of its disposition data to the department on its behalf, provided that designees are limited to:

- (i) entities that directly receive or directly take legal possession of material from the commingled recycling processing facility; or
- (ii) entities that do not receive material that originated at the commingled recycling processing facility.

(4) Auditing. Commingled recycling processing facilities must allow producer responsibility organizations to access their facilities for the purposes of conducting random bale tracking as required by OAR 340-090-0670(4).

(5) Material tracking. A commingled recycling processing facility must indicate in its operation plan to DEQ the method used for tracking its material along pathways of disposition and for generating required disposition reporting data.

## 2. Covered Products

### Division 90 RECYCLING AND WASTE REDUCTION

#### 340-090-0005

##### Purpose

OAR 340-090-0005 to 0510 establish the minimum requirements for providing the opportunity to recycle. These rules also describe the standards for waste prevention, reuse, recovery, and recycling programs in Oregon. The rules are adopted under the authority of ORS 459.045, 459A.025 and 468.020. These rules relate to the requirements of ORS 459.015, 459.250, 468.862 and Chapter 459A.

**Statutory/Other Authority:** ORS 459A.025, 459.045 & 468.020

**Statutes/Other Implemented:** ORS 459A.005, 459A.010, 459A.025 & 459A.575

##### History:

DEQ 18-2023, amend filed 11/17/2023, effective 11/17/2023

DEQ 3-2017, f. & cert. ef. 1-19-17

DEQ 31-1992, f. & cert. ef. 12-18-92, Renumbered from 340-060-0005

DEQ 26-1984, f. & cert. ef. 12-26-84

#### 340-090-0010

##### Definitions

The definitions in this rule apply to OAR 340-090-0005 to 0510, and OAR Chapter 340 Division 91. Unless otherwise specified:

(1) "Affected person" means a person or entity involved in the solid waste collection service process including but not limited to a recycling collection service, disposal site permittee or owner, city, county and metropolitan service district. For the purposes of these rules "affected person" also means a person involved in operation of a place to which persons not residing on or occupying the property may deliver source separated recyclable material.

(2) "Collection service" means a service that provides for collection of solid waste or recyclable material or both, but does not include that part of a business operated under a certificate issued under ORS 822.110. "Collection service" of recyclable materials does not include a place to which persons not residing on or occupying the property may deliver source separated recyclable material.

(3) "Collection service customers" includes: residential and commercial customers of a collection service as defined in ORS 459.005, and also, as of July 1, 2026, the multi-family residential and commercial tenants of landlords or property managers that are customers of a collection service for the benefit of their tenants.

(4) "Collector" means the person who provides collection service.

(5) "Commercial" means stores, offices including but not limited to manufacturing and industry offices, restaurants, warehouses, schools, colleges, universities, hospitals, prisons, and other institutions and non-manufacturing entities. "Commercial" does not include manufacturing activities or business, manufacturing, or processing activities in residential dwellings.

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(6) "Commingled materials" means materials that:

(a) Are collected as part of the provision of the Opportunity to Recycle rules and from receptacles located at residential and/or non-residential sources (generators) that are designated and promoted for the acceptance of commingled materials including at least the materials described in the Recycling Acceptance Lists rules found in either:

(i) OAR 340-090-0630(2)(a) through (c) and (e) through (i), or

(ii) OAR 340-090-0630(2)(j) through (l); or

(b) Contain at least two or more of the materials on the Uniform Statewide Collection List that are mixed together; and

(c) Are intended to be properly processed by a commingled recycling processing facility that meets the requirements contained in ORS 459A.905(2)(a).

(7) "Composting" means the managed process of controlled biological decomposition of organic or mixed solid waste. It does not include composting for the purposes of soil remediation. Compost is the product resulting from the composting process. "Composting" includes both aerobic composting and anaerobic digestion.

(8) "Consumer of newsprint" means a person who uses newsprint in a commercial or government printing or publishing operation.

(9) "DEQ" means the Department of Environmental Quality.

(10) "Depot" means a place for receiving source separated recyclable material.

(11) "Director" means the Director of the Department of Environmental Quality.

(12) "Disposal site" means land and facilities used for the disposal, handling or transfer of or energy recovery, material recovery, and recycling from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, energy recovery facilities, incinerators for solid waste delivered by the public or by a collection service, composting plants and land and facilities previously used for solid waste disposal at a land disposal site ; but the term does not include a facility authorized by a permit issued under ORS 466.005 to 466.385 to store, treat or dispose of both a hazardous waste and solid waste; a facility subject to the permit requirements of ORS 468B.050; a site which is used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar nondecomposable material, unless the site is used by the public either directly or through a collection service; or a site operated by a wrecker issued a certificate under ORS 822.110.

(13) "Energy intensive materials" means metals, paper, plastic, and food, including products that are primarily made of metals, paper, or plastic, such as some furniture, small and large appliances, and consumer electronics.

(14) "Energy recovery" means recovery in which all or a part of the solid waste materials are processed to use the heat content, or other forms of energy, of or from the material.

(15) "EQC" means the Environmental Quality Commission.

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(16) "Food rescue" means the practice of safely retrieving wholesome food still fit for human consumption that would otherwise be left unharvested or go to animal feed or a composting facility, anaerobic digestion facility, energy recovery facility, or other disposal site and redistributing that food through a food assistance program.

(17) "Food waste" means waste from fruits, vegetables, meats, dairy products, fish, shellfish, nuts, seeds, grains, and similar materials that results from the storage, preparation, cooking, handling, selling or serving of food for human consumption. "Food waste" includes but is not limited to excess, spoiled or unusable food and includes inedible parts commonly associated with food preparation such as pits, shells, bones, and peels. "Food waste" does not include dead animals not intended for human consumption or animal excrement.

(18) "Franchise" includes a franchise, certificate, contract or license issued by a local government unit authorizing a person to provide solid waste management services.

(19) "Generator" means a person who last uses a material and makes it available for disposal or recycling.

(20) "Glass container manufacturer" means a person that manufactures new glass containers in Oregon or that manufactures new glass containers outside Oregon sold by the manufacturer to packagers located in Oregon.

(21) "Industrial waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under ORS Chapters 465 and 466. Such waste may include, but is not limited to, waste resulting from the following processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; water treatment; and timber products manufacturing. This term does not include construction/demolition waste; or municipal solid waste from manufacturing or industrial facilities such as office or "lunch room" waste, or packaging material for products delivered to the generator.

(22) "Infrastructure support" means in-kind contributions in support of reuse, repair, leasing or sharing of efforts to reduce waste, such as: local government staff time; franchisee staff time; space at facilities owned, permitted, or franchised by a local government; space for meetings, storage, or display of materials; equipment; access to land; and access to vehicles.

(23) "Land disposal site" means a disposal site in which the method of disposing of solid waste is by landfill, dump, pit, pond, lagoon or land application.

(24) "Local government" means a political subdivision that regulates either solid waste collection, disposal, or both, including but not limited to incorporated cities, municipalities, townships, counties, parishes, regional associations of cities and counties, tribal reservations, and metropolitan service districts, but not including sewer districts, fire districts, or other political subdivisions that do not regulate solid waste.

(25) "Local government unit" means the territory of a political subdivision that regulates either solid waste collection, disposal, or both, including but not limited to incorporated cities, municipalities, townships, counties, parishes, regional associations of cities and counties, tribal reservations, and metropolitan service districts, but not including sewer districts, fire districts, or other political subdivisions that do not regulate solid waste. If a county regulates solid waste collection within unincorporated areas of the county but not within one or more incorporated cities or municipalities, then the county local government unit must be considered as only those areas where the county directly regulates solid waste collection.



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(26) "Material recovery" means any process of obtaining from solid waste, by presegregation or otherwise, materials that still have useful physical or chemical properties and can be reused, recycled or composted for some purpose.

(27) "Metropolitan service district" means a district organized under ORS Chapter 268 and exercising solid waste authority granted to such district under ORS Chapters 268, 459, and 459A.

(28) "Multi-family" means dwellings of five or more units.

(29) "Newsprint" means paper meeting the specifications for Standard Newsprint Paper and Roto Newsprint Paper as set forth in the 2023 HTSA Supplement edition of the Harmonized Tariff Schedule of the United States for such products. (See Figure 1.)

(30) "On-route collection" means pick up of source separated recyclable material from the generator at the place of generation.

(31) "On-site collection" has the same meaning as on-route collection.

(32) "Opportunity to recycle" means those activities described in OAR 340-090-0020, 340-090-0030, 340-090-0040, 340-090-0041, 340-090-0042, 340-090-0050 and 340-090-0080.

(33) "Permit" means a document issued by DEQ bearing the signature of the director or the director's authorized representative and that by its conditions may authorize the permittee to construct, install, modify, operate or close a disposal site in accordance with specified limitations.

(34) "Person" means the United States, the state or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or other legal entity.

(35) "Post-consumer waste" means a finished material that would normally be disposed of as solid waste, having completed its life cycle as a consumer item. Post-consumer waste does not include manufacturing waste.

(36) "Recyclable material" means any material identified for recycling collection under ORS 459A.914 or any other material or group of materials that can be collected and sold for recycling at a net cost equal to or less than the cost of collection and disposal of the same material.

(37) "Recycled-content newsprint" means newsprint that includes post-consumer waste paper.

(38) "Recycling" means any process by which solid waste materials are transformed into new products in such a manner that the original products may lose their identity.

(39) "Residential" means single family dwellings and multi-family dwellings having four or fewer units.

(40) "Reuse" means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

(41) "Solid waste" means all useless or discarded putrescible and nonputrescible materials, including but not limited to garbage, rubbish, refuse, ashes, paper and cardboard, sewage sludge, septic tank and cesspool pumpings or other sludge, useless or discarded commercial, industrial, demolition and construction materials; discarded or abandoned vehicles or parts thereof; discarded home and industrial appliances; manure, vegetable or animal solid and semisolid materials, dead animals and infectious waste as defined in ORS 459.386. "Solid waste" does not include:

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(a) Hazardous wastes as defined in ORS 466.005;

(b) Materials used for fertilizer, soil conditioning, humus restoration, or for other productive purposes or which are salvageable for these purposes and are used on land in agricultural operations and growing or harvesting crops and raising fowls or animals, provided the materials are used at or below agronomic application rates, or

(c) Woody biomass that is combusted as a fuel by a facility that has obtained a permit described in ORS 468A.040.

(42) "Solid waste management" means: preventing or reducing solid waste; managing the storage, collection, transportation, treatment, utilization, processing and final disposal of solid waste, recycling, reuse and material or energy recovery from solid waste; and facilities necessary or convenient to such activities.

(43) "Source separate" means that the person who last uses recyclable material separates the recyclable material from other solid waste.

(44) "Technical assistance" means assistance in support of reuse, repair, leasing or sharing provided to businesses or non-profit staff or programs, such as: program design and implementation; publicizing and promoting opportunities through channels such as directories of reuse and repair operations; research to support technical assistance efforts; and expending funds to hire specialists or contractors who provide information and advice in topics such as business planning, operations, facility design, market research, and marketing.

(45) "Toxic materials" means products or other materials that contain chemicals or groups of chemicals on DEQ's Toxics Focus List or that DEQ otherwise designates as "toxic."

(46) "Urbanized area" means, for jurisdictions within the State of Oregon, the territory within the urban growth boundary of each city of 4,000 or more population, or within the urban growth boundary established by a metropolitan service district. For jurisdictions outside the State of Oregon, "urbanized area" means a geographic area with substantially the same character, with respect to minimum population density and commercial and industrial density, as urbanized areas within the State of Oregon.

(47) "Waste prevention" means reducing the amount of solid waste generated or resources used, without increasing toxicity, in the design, manufacture, purchase or use of products or packaging. "Waste prevention" does not include reuse, recycling or composting.

(48) "Waste prevention campaign" means an organized effort intended to change one or more specific behaviors or practices that reduces the amount of solid waste generated or resource used without increasing toxicity in the design, manufacture, purchase, or use of products or packaging. A food rescue program is not a waste prevention campaign for the purpose of complying with sections OAR 340-090-0042(3) or (4).

(49) "Wasteshed" means the areas of the state of Oregon as defined in ORS 459.005 and listed in ORS 459A.010 and OAR 340-090-0050.

(50) "Yard debris" means vegetative and woody material generated from residential property or from commercial landscaping activities. This includes grass clippings, leaves, hedge trimmings and similar vegetative waste but does not include stumps or similar bulky wood materials.

[ED. NOTE: To view attachments referenced in rule text, [click here to view rule.](#)]

**Statutory/Other Authority:** ORS 459.045, 459A.100 - 459A.120 & 468.020

**Statutes/Other Implemented:** ORS 459A.005 & 459A

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DEQ 10-1994, f. & cert. ef. 5-4-94

DEQ 31-1992, f. & cert. ef. 12-18-92, Renumbered from 340-060-0010

DEQ 1-1989, f. & cert. ef. 1-27-89

DEQ 5-1988, f. & cert. ef. 2-2-88

DEQ 7-1987, f. & cert. ef. 3-18-87

**OAR 340-090-0840**

**Clarifications to the Definition of Covered Products**

(1) For purposes of ORS 459A.863 (7) and (18):

(a) A material used in storage is an item purchased empty and used for storage of other material, including but not limited to file boxes and folders, moving boxes, plastic storage bags, including garbage bags, food containers for perishable or non-perishable foods, and plastic storage containers for durable items including large bins with and without lids.

(b) Packaging includes service packaging. Service packaging is packaging that is filled at the point of sale for the purpose of transferring goods to a consumer. Service packaging includes but is not limited to:

(A) Single-use shopping bags, including checkout, produce, and bulk food bags;

(B) Bags, wraps, single-use trays and associated items such as paper used to separate slices of cheese, and used by a retailer for packaging cheese, tofu, produce, meat, and fish;

(C) Trays provided to a consumer for containing multiple plants purchased at a nursery; and

(D) Bags or envelopes used to contain screws, nails and other bulk fasteners at a hardware store.

(c) Packaging includes Wraps sold directly to consumers, including but not limited to aluminum foil, film wrap, wax paper, and parchment paper.

(d) Food serviceware is used to contain or consume food or drink that is ready to eat. Food serviceware is sold empty or unused to a retailer, a dine-in food establishment or a take-out food establishment, regardless of whether the item is used to prepackage food for resale, is filled on site for food ordered by a customer or is resold as is.

(2) Pursuant to ORS 459A.863(6)(b)(R) the following are not covered products:

(a) Packaging that is used for the long-term (five or more years) storage of a product with a lifespan of three or more years.

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(b) Packaging of the following medical devices:

(A) Class II medical devices that are sold labeled as sterile and that have a 510(k) premarket notification on file with the Food and Drug Administration.

(B) Class III medical devices as defined in 360c of Title 21 of the United States Code.

(c) Packaging used in healthcare facilities, as defined in ORS 442.015, for the management of infectious waste as defined in ORS 459.386.

(d) Packaging of the following agricultural chemicals:

(A) Pesticides classified as restricted-use under the provisions of section 3(d) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and 40 CFR part 152, subpart I and sold to licensed commercial applicators.

(B) Returnable or refillable intermediate bulk containers containing commercial-use pesticides, fertilizers and agricultural amendments.

(C) Returnable or refillable asset totes, drums, and kegs containing commercial-use pesticides, fertilizers and agricultural amendments.

(D) Rigid HDPE packaging of commercial-use pesticides, fertilizers and agricultural amendments produced by members of the Ag Container Recycling Council or ACRC and eligible for collection by ACRC. This exemption does not apply in any year that ACRC fails to submit data to DEQ, in a form and manner provided by DEQ, that demonstrates ACRC's maintenance of a consistent collection rate and standard of convenience compared with a baseline year of 2023, and that ACRC is recycling the containers at responsible end markets.

(e) Reusable and refillable pressurized cylinders of the following types:

(A) Pure hydrogen or oxygen cylinders of any size;

(B) Acetylene cylinders, 10 cubic feet and larger in size; and

(C) Carbon dioxide cylinders, 5 lbs. and larger in size.

(3) For purposes of ORS 459A.869(13):

(a) Collection services not provided under the opportunity to recycle include but are not limited to the following.

(A) Any collection from a commercial generator that is not used by a local government to comply with ORS 459A.005 or .007, including:

(i) Commercial generators collecting and sending materials directly to end markets and exempt from the requirements of ORS 459A.005 and .007 per ORS 459A.075; and

(ii) Collection points that accept materials from consumers and send them directly to end markets.

(B) Any collection of materials from residential generators that is not used by a local government to comply with ORS 459A.005 or .007 and sends materials directly to end markets.

(b) Separation means separation of two or more commingled materials from one another or removal of contamination from a material that was collected source segregated.

(c) A material is recycled at a responsible end market if the end market has been verified as responsible by a producer responsibility organization pursuant to OAR 340-090-0670(3)(f) or certified responsible through third-party certification from an Environmental Quality Commission-approved program pursuant to ORS 459A.955(2)(h)(A)(ii) and OAR 340-090-0670(3)(a)(B). The certification, verification, or the most recent renewal audit of either the certification or the verification conducted pursuant to OAR 340-090-0670(3)(g) must have occurred within a calendar year of the producer requesting the exemption.

(d) Materials collected through a recycling collection service provided under ORS 459A.896(1) and used by a producer responsibility organization to satisfy the convenience standards are not eligible for the exemption. This applies both to physical collection points counted by a producer responsibility organization toward the convenience standard at OAR 340-090-0640(2) and to collection applied by a producer responsibility organization toward alternative compliance to convenience standards pursuant to OAR 340-090-0640(6).

### 3. PRO Obligations

**OAR 340-090-0820**

#### **Processor Commodity Risk Fee**

Pursuant to ORS 459A.920, a producer responsibility organization shall pay a commingled recycling process facility a processor commodity risk fee as provided by this rule.

(1) Calculation of fee. The processor commodity risk fee shall be the total eligible tons multiplied by the total of the fee rate in Section (2) less the average commodity value determined by DEQ pursuant to Section (3). For purposes of this section an eligible ton is a ton of commingled recyclable material collected, that has not been previously processed by a commingled recycling processing facility, that came from a collection program providing the opportunity to recycle into a commingled recycling processing facility that meets the requirements under ORS 459A.905(2)(a).

(2) The fee rate shall be as follows:

(a) \$200 for the 2025 and 2026 program years (July 1, 2025 – Dec. 31, 2026);

(b) \$286 for the 2027 program year (Jan. 1, 2027 – Dec. 31, 2027); and

(c) \$245 for the 2028 program year (Jan. 1, 2028 – Dec. 31, 2028) and all years thereafter.

(3) Average Commodity Value. DEQ will determine the average commodity value monthly in accordance with this Section. DEQ will notify commingled recycling processing facilities of the Average Commodity Value for the month being invoiced within the first business week of the subsequent month and will publish the Average Commodity Value on a designated DEQ webpage or in another manner similarly available to the public.

(a) Average commodity value is the weighted average market price multiplied by the Oregon-specific average commodity value differential of 1.0719. The weighted average market price is the sum of each of the commodity weighted average factors, provided by Subsection (b), after each factor has been multiplied by published scrap price per ton, as determined pursuant to Subsection (c), for that commodity. The Oregon-specific average commodity value differential is the estimated difference between published values and values from actual market transactions.

(b) The commodity weighted average factors are:

(A) Cardboard, 0.50;

(B) Paper Fiber other than Cardboard, 0.33;

(C) Polyethylene Terephthalate (PET), 0.021;

(D) High-Density Polyethylene (HDPE), Natural, 0.015;

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- (E) High-Density Polyethylene, Color, 0.02;
- (F) Mixed Plastic, 0.013;
- (G) Tin and Steel Cans, 0.014;
- (H) Aluminum, 0.008; and
- (I) Other Materials (including contamination), 0.079

(c) DEQ shall determine the published scrap price per ton for each commodity as described in this subsection.

(A) DEQ will use price data from the following two sources: RecyclingMarkets.net, Secondary Materials Pricing and Waste Paper Composite Index a part of Secondary Commodity Composite Index. DEQ will use the sources for each commodity as follows:

(i) For Cardboard DEQ will use the blended average of 50 percent RecyclingMarkets.net OCC PS11 and 50 percent Waste Paper Composite Index, baled OCC;

(ii) For Paper Fiber other than Cardboard DEQ will use the weighted average of 78 percent mixed paper price from RecyclingMarkets.net, PS54 and Waste Paper Composite Index, mixed baled waste paper and 22 percent Sorted Residential Papers (RecyclingMarkets.net, PS56)

(iii) For Polyethylene Terephthalate (PET), DEQ will use RecyclingMarkets.net, PET baled, picked up;

(iv) For High-Density Polyethylene (HDPE) Natural, DEQ will use RecyclingMarkets.net, HDPE natural baled, picked up;

(v) For High-Density Polyethylene Color, DEQ will use RecyclingMarkets.net, HDPE color baled, picked up;

(vi) For Mixed Plastic, DEQ will use RecyclingMarkets.net, #3-#7 baled, picked up;

(vii) For Tin and Steel Cans, DEQ will use RecyclingMarkets.net, steel cans, sorted, baled, picked up;

(viii) For Aluminum, DEQ will use RecyclingMarkets.net, aluminum cans, sorted, baled, picked up;

(ix) For Other materials the market price shall be \$0 per ton.

(B) DEQ will use price data from the sources described in Paragraph (A) that is specific to Region 4, Pacific Northwest, where prices are reported on a regional basis. Where price data is reported only on a national basis, DEQ will use national price data. For price data sourced from the Waste Paper Composite Index, DEQ will utilize the published commodity value for the month. For price data sourced from Recyclingmarkets.net, DEQ will determine the commodity value for the month by identifying the Regional Average prices for each day that data is published, for the last day of the prior month and through the end of month in question to

identify the daily commodity values. Once the daily values are identified, DEQ will use the daily values to calculate the average commodity value for the month.

(C) If either data sources described in Paragraph (A) become unavailable, DEQ will calculate the percent change to the price of that commodity using the secondary sources described in Paragraph D between the current month and the last month that the source described in Paragraph (A) was available. DEQ will then apply that percent change to the last month that data from the source described in Paragraph (A) was available.

(D) DEQ will utilize the following secondary sources, if necessary, to determine the published market value for a commodity:

(i) For Cardboard and Paper Fiber other than Cardboard DEQ will use the FRED Producer Price Index by Commodity: Pulp, Paper, and Allied Products: Recyclable Paper to determine the percent change by month;

(ii) For PET DEQ will use PlasticsNews.com North America recycled plastic resin price for clear post-consumer flake to determine the percent change by month;

(iii) For HDPE, natural, DEQ will use PlasticsNews.com North America recycled plastic resin price for natural, post-consumer flake to determine the percent change by month;

(iv) For HDPE color, DEQ will use PlasticsNews.com North America recycled plastic resin price for mixed colors post-consumer flake to determine the percent change by month;

(v) For mixed plastic material, utilize Scrapindex.org's monthly Mixed Sortable Plastic Scrap price for mixed plastic material;

(vi) For mixed scrap iron and steel, utilize Scrapindex.org's monthly mixed scrap iron and steel price for mixed scrap iron and steel; and

(vii) For aluminum, DEQ will use ScrapIndex.org baled UBC monthly price to determine the percent change by month.

(E) Should any of the secondary sources described in Paragraph (D) become unavailable, DEQ will adjust the market price for the commodity by the percent change in Consumer Price Index for all Urban Consumers as published by the United States Bureau of Labor Statistics for the most recently published month.

(4) Invoicing. A commingled recycling processing facility shall invoice the processor commodity risk fee on forms provided by DEQ and as provided by this section.

(a) A commingled recycling processing facility may invoice a producer responsibility organization for any tons processed in a month after that month has concluded. A commingled recycling processing facility shall not combine tons from different months. Tons shall be invoiced specific to the month and year they were processed.

(b) All tons will be invoiced using the average commodity value established by DEQ for the month the tons were processed, regardless of when the tons are invoiced.



(c) A commingled recycling processing facility shall not include any amount of commingled recycling which originated outside the State of Oregon on an invoice.

(d) A commingled recycling processing facility shall not include any amount of non-commingled recycling handled by the facility on an invoice.

(e) A commingled recycling processing facility shall not include any amount of commingled recycling that was already invoiced by a different commingled recycling processing facility on an invoice. In the event multiple commingled recycling processing facilities process commingled recyclable material the commingled recycling processing facilities shall negotiate and agree upon a fair distribution of the fee between the commingled recycling processing facilities.

(f) A commingled recycling processing facility shall not include any amount of material that is eligible to be invoiced for the purpose of receiving Contamination Management Fee pursuant to [OAR 090-0830] on an invoice.

(5) Reporting and Review.

(a) Commingled recycling process facility shall report information related to the fee described in this rule as required by DEQ, including but not limited to providing on forms provided by DEQ monthly transactional data associated with each inbound load of commingled recyclables received by the processing facility.

(b) DEQ or the producer responsibility organization may conduct on-site and off-site assessments of facility-specific data, to ensure that a commingled recycling processing facility is in compliance with this rule and is correctly invoicing tons. If a commingled recycling processing facility invoices and is paid by a producer responsibility organization for tons of material that were not eligible for the fee under this rule the commingled recycling processing facility shall promptly reimburse the producer responsibility organization.

## **OAR 340-090-0830**

### **Contamination Management Fee**

Pursuant to ORS 459A.920 a producer responsibility organization shall pay a commingled recycling processing facility that meets the requirements of ORS 459A.905(2)(a) for a valid permit or certification a contaminant management fee for the cost of removing and disposing of covered products that are contaminants as provided by this rule.

(1) Calculation of Fee and Invoicing. The contamination management fee shall be the fee rate provided by Section (2) multiplied by the tons of eligible material provided by Section (3) multiplied by .467, the percentage of contamination in the average ton of commingled recyclable material that is covered product. The fee shall be calculated and invoiced by a commingled recycling processing facility on forms provided by DEQ. The fee shall be invoiced no more than once per month and payment must be made within 45 days of invoice.

(2) Fee Rate. The fee rate shall be the following:

(a) \$341 for the 2025 and 2026 program years, July 1, 2025 – December 31, 2026;

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(b) \$432 for the 2027 program year, January 1, 2027 – December 31, 2027;

(c) \$418 for all program years after the 2027 program year.

(3) Tons of eligible material shall be determined by weighting eligible material.

(a) For purposes of this rule eligible material is:

(A) Any covered product, as defined under ORS 459A.863(6)(a), that is not listed for collection on the Uniform Statewide Collection List, under ORS 459A.914(1)(a), and is in the inbound stream at a commingled recycling processing facility; and

(B) Any covered product that is included in the Uniform Statewide Collection List but which was improperly prepared by system users to the point the material is difficult for the processing facility to handle or market.

(C) Eligible material does not include ineligible material, as described in Subsection (b)

(b) For purposes of this rule ineligible material is:

(A) Any material that is listed on the Uniform Statewide Collection List and properly prepared for recycling;

(B) Any material that is not a covered product as defined by ORS 459A.863(6)(b);

(C) Any material that originated outside of Oregon; and

(D) Any material originating in a mixed waste processing system that has been transferred to a co-located commingled recycling processing facility for the purposes of processing.

(4) Covered product contamination.

(a) A commingled recycling processing facility may include in the contamination management fee all tons of Oregon-generated covered product contamination processed and marketed, provided that the covered product is accepted and desired by the responsible end market and all other standards for reporting and responsible end markets are met, as stated under OAR 340-096-0310.

(b) A ton described in this Section may only be included in an invoice for contamination management fee funding if the non-Uniform Statewide Collection List material is baled or otherwise marketed separately from uniform statewide collection list material.

(c) The fee for a ton of material described in this section will be the total tons of material processed and marketed multiplied by the fee rate in Section (2) multiplied by the following adjustment:

(A) 75 percent for all glass covered product contamination processed and marketed;

(B) 80 percent for non-USCL covered product plastic material processed and marketed; and

(C) 100 percent of the established fee rate for covered film plastic processed and marketed.

(d) The fee shall be calculated and invoiced by a commingled recycling processing facility on forms provided by DEQ. The fee shall be invoiced no more than once per month and payment must be made within 45 days of invoice.

(5) Reporting and Review.

(a) Commingled recycling process facilities shall report information related to the fee described in this rule as required by DEQ, including but not limited to:

(A) Reporting of ineligible tons of out of state generated material processed;

(B) Reporting of transactional data associated with each inbound load of commingled recyclables delivered to the facility, as required by DEQ;

(C) Monthly reporting of the invoiceable outbound residual tonnage figure, and the total tons of covered product contamination sent to market. These two items cannot be reported in a combined manner.

(b) DEQ shall review the fee at least once every five years, but no more frequently than once per year.

(c) DEQ or a producer responsibility organization may conduct on-site and off-site assessments of facility-specific data, to ensure data is accurate and that a processing facility is not invoicing for ineligible material. If a commingled recycling processing facility invoices and is paid by a producer responsibility organization for tons of material that were not eligible for the fee under this rule the commingled recycling processing facility shall promptly reimburse the producer responsibility organization.

## OAR 340-090-0690

### Waste Prevention and Reuse Fee

3) Waste Prevention and Reuse Fee – producer responsibility organizations shall pay a waste prevention and reuse fee each year as described in ORS 459A.941. DEQ will invoice a producer responsibility organization on or before September 1 for payment within 30-days of invoicing.

(a) The fee shall be the lesser of:

(A) \$15 million, each year after 2025 adjusted based on the Consumer Price Index for all Urban Consumers (CPI-U) as published by the U.S. Bureau of Labor Statistics; or

(B) 10 percent of the three-year average of all producer responsibility organization's annual expenditures summed, excluding payments of the fee established under this rule, as described in the organizations' annual reports submitted under ORS 459A.887.

(b) The department may at its discretion reduce the fee in a given year if it determines the full amount is not required to pay the costs of administering and implementing of ORS

459A.941 in that year while ensuring that the fee reasonably covers expenditures of the program.

(c) If DEQ has approved only one producer responsibility organization for a given year that producer responsibility organization will pay the entirety of the fee described in paragraph (a). If multiple producer responsibility organizations are approved to operate in the state in a given year, the fee described in paragraph (a) of this section will be divided between the producer responsibility organizations in proportion to their most recently calculated modified market share as determined by OAR 340-090-0700(2).

4) The Waste Prevention and Reuse Fund established in ORS 459A.950 shall be used for the purposes of reducing environmental impacts of covered products through means other than waste recovery as described in ORS 459A.941, including but not limited to the following:

(a) Department expenses in administering programs pursuant to ORS 459A.941;

(b) Staffing including wages and benefits;

(c) Capital investments including equipment, buildings, and purchasing and leasing of land (to include remodeling existing infrastructure, construction of new infrastructure or procuring existing infrastructure to support activities related to environmental impact reduction);

(d) Reusable items that allow for a reduction in the environmental impacts of covered products;

(e) Repair and lifespan extension of covered products;

(f) Research, evaluation, surveys, and assessment;

(g) Pollution control technology that exceeds regulatory requirements;

(h) Feasibility assessments and pilot projects;

(i) Technical assistance;

(j) Education, outreach, promotion, training, and skills development;

(k) Community engagement;

(l) Operation and maintenance costs;

(m) Services and supplies; and

(n) Indirect costs and overhead.

## **OAR 340-090-0670**

### **Responsible End Markets**

(1) Definition of end market. For purposes of ORS 459A.869(7) and ORS 459A.896(2)(a), end markets are defined by material as follows:

(a) For glass the end market is the entity that first uses the glass in lieu of a virgin material downstream of the beneficiation plant, if any, where bottles are crushed, for example a bottle

manufacturer, fiberglass manufacturer or pozzolan (used to make cement and concrete) producer.

(b) For metal the end market is the entity that smelts the recycled material and produces ingots, sheet, coil, or other materials that are subsequently refabricated into packaging or product.

(c) For paper the end market is the entity that re-pulps the recycled material either into a pulp product that is sold to paper manufacturers or used to produce paper or paperboard products. If paper is recycled in a manner that does not involve repulping (for example, used to produce a wallboard product), the end market is the entity that uses the waste paper to produce a product that is sold without further transformation or manufacturing.

(d) For plastic, except for plastic that is recycled to produce packaging for food or beverage applications or for production of children's products, the end market is the entity that last processes flake, pellet, or other resin material containing recycled plastic prior to sale or transfer to another person that creates a new product either by placing it into a mold or through extrusion or thermoforming. This definition applies to both mechanical and non-mechanical recycling pathways.

(e) For plastic that is recycled to produce packaging for food and beverage applications or for production of children's products, the end market is the entity that places it into a mold for the manufacturer of such packaging or product. This definition applies to both mechanical and non-mechanical recycling pathways.

(f) For any recycling pathway without an end market provided by (a) through (e), the department may designate an end market on a case by case basis.

(2) Standard for responsible end markets.

(a) For an end market to be a responsible end market, all entities that receive waste material collected for recycling in Oregon downstream of the commingled recycling processing facility or producer responsibility organization collection point (or post-collection in a supply chain without either facility) must meet the responsible standard, including:

(A) The end market(s).

(B) All entities in the supply chain leading to the end market, including brokers and shipping companies that take legal or physical possession of materials.

(C) Other locations where material disposition occurs (including landfills and incineration facilities).

(D) All entities along pathways leading to locations where material disposition occurs (including reload facilities).

(E) Entities that produce and use co-products of non-mechanical recycling (including fuels and waxes).

(b) The entities named in section (2)(a)(A)-(E) of this rule must meet the following standards:

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(A) Compliant. Meaning the entity follows its own local, state, and national laws (including relevant environmental, labor, and public health laws) and treaty obligations, and is registered and permitted as required by local, state, and national authorities.

(B) Transparent. Meaning the entity is willing to be named and audited, provides chain of custody documentation tracking materials (originating in Oregon) to disposition, maintains record keeping relevant to chain of custody and material disposition in accordance with ORS 459A.962(7), and promptly documents within the chain of custody any penalties, violations or regulatory orders received.

(C) Environmentally-sound. Meaning the entity is willing to be audited and monitored for outdoor air, water and land emissions and disposal; stores and manages waste and recyclables in a way that avoids release into the environment; and manages inputs sustainably. This includes demonstrating adequate emergency response and environmental health, safety, and management plans; and

(D) Achieving adequate recycling yields. Meaning the recycling supply chain recycles or causes to be recycled at least 60 percent of each material listed in the recycling acceptance lists (if applicable, consisting of the uniform statewide collection list developed pursuant to OAR 340-090-0630(4) and ORS 459A.914(4)(b), the producer responsibility organization recycling acceptance list as described in OAR 340-090-0630(3), and the list of specifically identified materials as promulgated and maintained by DEQ pursuant to ORS 459A.917, even if multiple materials are mixed together, with the remaining material managed in a responsible manner and in alignment with Oregon's hierarchy of materials management pursuant to ORS 459.015. Except that the recycling supply chain must recycle or cause to be recycled at least 50 percent of shredded paper processed into high-grade office paper or cartons processed into tissue.

(c) Recycling yield, as stated in Section 2(b)(D) of this rule, will be determined as follows:

(A) For all materials except for composite cans made of paper and steel, the recycling yield is the amount of the material that was successfully processed and recycled by the end market divided by the amount of the material that entered the first entity of the recycling supply chain downstream of the commingled recycling processing facility or producer responsibility organization collection point (or post-collection in a supply chain without either facility).

(B) For composite cans made of paper and steel, the recycling yield is the amount of the metal fraction or paper fraction of the material that was successfully processed by the end market, divided by the amount of that fraction that entered the recycling supply chain initially. If the yield of either the metal fraction or of the paper fraction exceeds 60 percent, the composite material is achieving adequate yields.

(C) Calculation of recycling yield shall exclude moisture and any contaminants that are included in the bale of received material, as well as incidental materials that are adhered to the received material but are not targeted for recovery, such as tape and staples on corrugated boxes, or inks and labels on most types of packages. In the event that DEQ sets limits for acceptable contamination and moisture in outbound bales through the commingled recycling processing facility permit program per ORS 459A.955(3), reductions to the yield calculation denominator to account for contamination and/or moisture cannot exceed either limit.

(D) For the purpose of determining whether at least 60 percent of each material is recycled, yield for individual materials that are recycled separately from other materials must be evaluated on the basis of those individual materials. For materials that are mixed together (such as a bale of mixed paper or mixed plastic) and are being used by the commingled recycling processing facility to achieve capture rates pursuant to OAR 340-096-0300(2)(a), yield must be evaluated as follows:

(i) Yield for items listed in OAR 340-090-0630(2)(d) must be evaluated separately from other materials.

(ii) Yield for composite cans made of paper and steel must be evaluated separately from other materials if this material is added to the Uniform Statewide Collection List and recycled at a paper mill.

(iii) Yield for items listed in OAR 340-090-0630(2)(j) must be evaluated separately for materials identified in each subparagraph of paragraphs (A) through (D).

(iv) Yield for items listed in OAR 340-090-0630(3)(a) through (d), (f), (g) and (j) must be evaluated separately from other materials.

(v) Yield must be evaluated separately for any materials proposed by a producer responsibility organization for addition to the uniform statewide collection list pursuant to ORS 459A.914(4)(b) or counted toward the statewide plastic recycling goal in a producer responsibility program plan or plan amendment and approved by DEQ under ORS 459A.878, if required by DEQ.

(vi) Yield for other materials that are marketed mixed together may be evaluated in total.

(E) Yield, including separate yields for materials mixed together and indicated in subparagraphs (i) through (iv) of paragraph (D) may be estimated and self-attested to by entities in the recycling supply chain, with methodological justification provided.

~~(d) A producer responsibility program plan must describe protocols to be applied when reporting disposition for and calculating yield in recycling supply chains in which obligated Oregon materials mix with non-obligated materials, such as material from another state. This plan must use controlled blending as defined in ISO 22095: 2013, CHAIN OF CUSTODY—GENERAL TERMINOLOGY AND MODELS as the primary method of disposition and yield accounting when materials mix.~~

(3) Implementation of the responsibility standard by a producer responsibility organization.

(a) A producer responsibility organization must ensure that materials collected for recycling go to responsible end markets as detailed in ORS 459A.896(2) and this rule by completing the following two steps successively:

(A) First, a producer responsibility organization must, using a screening assessment form provided by DEQ, receive and corroborate written verification from each end market and other downstream entity that it meets the responsible standard provided by section 2 of this rule.

(B) Next a producer responsibility organization must conduct a more detailed assessment of whether each end market and other downstream entity meets the responsible standard provided by section 2 of this rule, either through a verification by the producer responsibility organization as provided by subsection (g) of this rule or through third-party certification from an Environmental Quality Commission-approved program.

(b) For materials described under ORS 459A.869(7)(a) and any other materials collected by a producer responsibility organization (including collected through contract with a producer responsibility organization), a producer responsibility organization must complete the step provided by paragraph (a)(A) by the start date of the program (as defined in OAR 340-090-0720), ~~and the step provided by paragraph (a)(B) within one year the start date of the program.~~ For such materials added after the start date of the program a producer responsibility organization must complete the step provided by (a)(A) prior to delivery of the materials to the end market, and the step provided by paragraph (a)(B) within 6 months of first delivery to the end market. For materials delivered to end markets for recycling on or before June 30, 2026, the step provided by paragraph (a)(B) must be completed by July 1, 2027. For materials delivered to end markets for recycling after June 30, 2026, a producer responsibility organization must complete the step provided by paragraph (a)(B) within 12 months of first delivery to the end market.

(c) For materials of described under ORS 459A.869(7)(b) and any other materials not collected by the producer responsibility organization, a producer responsibility organization must complete the step provided by paragraph (a)(A) within six months of the program start date (as defined in OAR 340-090-0720), ~~and the step provided by paragraph (a)(B) by July 1, 2027. For such markets added after the start date of the program a producer responsibility organization must complete the step provided by paragraph (a)(A) within six months of delivery of the materials to the end market, and the step provided by paragraph (a)(B) within 12 months of first delivery to the end market.~~ For materials delivered to end markets for recycling on or before June 30, 2026, the step provided by paragraph (a)(B) must be completed by July 1, 2027. For materials delivered to end markets for recycling after June 30, 2026, a producer responsibility organization must complete the step provided by paragraph (a)(B) within 12 months of first delivery to the end market.

(d) If a producer responsibility organization completes the step provided by paragraph (a)(B) prior to and within the timeline of the step provided by paragraph (a)(A), the producer responsibility organization is not required to perform the step provided by paragraph (a)(A).

(e) Each end market and other downstream entity that receives material collected for recycling in Oregon requires only one screening assessment and an annually-audited verification by a producer responsibility organization or third-party certification from an Environmental Quality Commission-approved program. Commingled recycling processing facilities and producer responsibility organizations that send materials to the same end markets or other downstream entities may coordinate their market assessment efforts to avoid duplication of effort.

(f) DEQ may approve temporary variance to the timelines required by sections (3)(b) and (3)(c) in a producer responsibility program plan.



(g) The producer responsibility verification required by paragraph (a)(B) of this section must contain the following:

(A) A description of how a producer responsibility organization determined that the indicated entity or entities (if final disposition occurred at multiple sites) was the end market;

(B) A list of local, state and national laws and international treaties applicable to the entity as required by section 2(a)(A) of this rule;

(C) Documentation that the end market and all other downstream entities meet all requirements of section 2 of this rule, with the following exceptions:

- (i) entities that take only legal and not physical possession of materials do not need to be verified for yield or environmental soundness;
- (ii) entities that take physical possession of materials but do not cause the materials in a bale to undergo separation or processing do not need to be verified for yield; and
- (iii) landfills and incinerators do not need to be verified for yield; tonnages received by these entities should rather be treated as yield loss at end markets.

(D) Documentation of any noncompliance with the requirements section 2 of this rule.

(E) Documentation of the qualification of the auditor required by section 4 of this rule; and

(F) Certification and signature from the auditor required by section 4 of this rule that the end market meets the requirements of section 2 of this rule.

(g) The detailed verifications required by paragraph (a)(B) of this rule and certification audits required by section 4 of this rule must occur on an annual basis, with the first renewal verification or certification audits occurring within a year of initial certification.

(h) DEQ may approve temporary variance to the required components of the detailed verifications required by paragraph (a)(B) of this rule.

(4) Auditing. To demonstrate compliance with the requirement that materials collected for recycling go to responsible end markets as required by ORS 459A.896(2) and this rule, a producer responsibility organization must conduct auditing and provide audit results in annual reporting to DEQ. These audits must include results of random bale tracking to verify chain of custody and must demonstrate and certify that end markets meet the requirements of section 2 and 3 of this rule. For the purposes of enforcement, DEQ may conduct its own random bale tracking.

(5) Definition of practicable. For purposes of ORS 459A.869(7) and ORS 459A.896(2), practicable actions that may be undertaken by a producer responsibility organization must be determined in accordance with this rule.

(a) Practicable actions may include, but are not limited to, the following:

(A) Providing financial support to help an existing end market that does not meet the standard for responsible under section 2 of this rule or an existing market that is not in alignment with the

hierarchy of materials management options under ORS 459A.015(2), to upgrade or change operations to become responsible or aligned with the hierarchy of materials management.

(B) Providing financial support to divert materials to a different end market that is responsible under section 2 of this rule or in alignment with the hierarchy of materials management.

(C) Directing materials to an alternative end market if materials are directly under producer responsibility organization control.

(D) Offering to buy or take ownership of materials to directly control their flow if materials are not already directly under the control of the producer responsibility organization.

(E) Developing a new market for a material.

(b) If the results of an audit under section 4 of this rule show that an end market does not meet the responsible end market standards in section 2 of this rule, the producer responsibility organization must carry out practicable actions to meet the responsible end market standards in section 2 of this rule.

(c) A producer responsibility organization may not claim that an action is not practicable simply because it results in higher costs for the producer responsibility organization. A claim that an action is not practicable must demonstrate costs that are not justified given the resulting societal benefits. A producer responsibility organization must choose one of the following two methods for showing that costs are not justified given resulting societal benefits:

(A) Evaluate the per-ton transactional costs of all possible solutions against the benchmark for average societal benefit of recycling. The benchmark for average societal benefit of recycling is \$2,017 per ton expressed in 2021 dollars, and will be adjusted for inflation no more frequently than once per year. Any adjustment shall be limited to an adjustment using the CPI - U as published by the Bureau of Labor Statistics, using calendar year 2021 as the base year which corresponds to the benchmark value. A per-ton cost lower than the societal benefit benchmark is cost effective and potentially practicable. A per-ton cost higher than the per-ton societal benefit value is not practicable.

(B) Perform an analysis of financial costs and societal benefits customized to the particular materials and practices at hand. A customized approach could be warranted under several circumstances, such as if the material in question has a societal benefit well below the system-wide average.

(d) The department will review and evaluate a producer responsibility organization claim that an action is not practicable due to costs. If the department agrees with the claim, the department will then review the material in question and its inclusion in a recycling acceptance list. If the department's review determines that an action is practicable, then the producer responsibility organization must immediately undertake that action.

(e) DEQ will consult with the Oregon Recycling System Advisory Council prior to deciding if an action is practicable.

(6) Reporting. A producer responsibility organization must append all screening assessments, verification reports, and certification reports conducted in a given quarter to quarterly disposition reports submitted to DEQ pursuant to ORS 459A.887(6). For all end markets and other downstream entities that receive materials for which it is responsible, per ORS 459A.887(6) producer responsibility organizations must report disposition to DEQ as follows:

(a) Disposition reports shall consist of disposition data provided in a manner proscribed by DEQ, as well as all screening assessments, verification reports, and certification reports conducted in a given quarter.

(b) Disposition reports must be submitted to DEQ on a quarterly basis, with reports due no later than 45 days after the end of the end of each calendar quarter.

- (A) The first disposition report is due November 14, 2025.
- (B) No disposition reporting is required for materials described in ORS 459A.869(7) that depart from a commingled recycling processing facility, a limited sort facility, or a producer responsibility organization collection point provided under ORS 459A.896(1) prior to July 1, 2025.
- (C) If a producer responsibility organization wishes to send materials to an entity listed in Paragraph (2)(a)(A) to (E) of this rule and for which no signed screening assessment is on file with DEQ, the signed screening assessment for the entity may be submitted to DEQ outside of the reporting schedule.

(c) Disposition data must:

- (A) Indicate entities listed in Subsection (2)(a) of this rule that took possession of material, including the business or person name, city, state, region, and country. The entities must be ordered sequentially along the pathway of disposition, with the end market positioned at the end; and
- (B) Indicate the amount of material received in tons by each entity during the quarter.
  - (i) Disposition must be reported using the following reporting categories:
    - (I) Capture rate material categories in OAR 340-096-0300(2)(a).
    - (II) Reporting categories that are temporarily designated by DEQ when a material has been added to the uniform statewide collection list by a producer responsibility organization via its program plan per ORS 459A.914(4)(b)).
    - (III) Aerosol cans
    - (IV) Aluminum foil and products made of pressed aluminum foil;
    - (V) Shredded paper
    - (VI) Polyethylene film
    - (VII) Block white expanded polystyrene
    - (VIII) Mixed polyolefins collected pursuant to OAR 340-090-0640.
    - (IX) Pressurized cylinders
    - (X) Other categories. A producer responsibility organization may use more reporting categories than those indicated in subparagraph (i)(I)-(IX) of this rule provided that the categories used can be combined into the categories listed in this rule. A producer responsibility organization may also use alternative reporting categories if it proposes to do so in a producer responsibility program plan or plan amendment that is approved by DEQ under ORS 459A.878.
  - (ii) When reporting disposition for supply chains in which materials described in ORS 459A.867(4) and for which PROs must ensure flow to responsible end markets mix

with non-obligated materials, such as material originating from another state, an accounting method that attributes outputs proportionally with inputs must be applied to attribute output volumes to Oregon. An example of such a method is the controlled blending methodology or mass balance rolling average percentage methodology as defined in ISO 22095: 2020, CHAIN OF CUSTODY – GENERAL TERMINOLOGY AND MODELS.

- (C) Contain comprehensive accounting for all destinations and tonnages described in Subparagraphs (c)(A) and (c)(B) of this rule. Such accounting may exclude individual dispositions to end markets and other locations of final disposition of less than 1 percent of the total material in a reporting category handled by a given commingled recycling processing facility, a given limited sort facility, or collectively by the producer responsibility organization collection points in a given quarter, provided that these exemptions comprise no more than 10 percent by weight of the total amount of that material handled by the commingled recycling processing facility, the limited sort facility, or the network of producer responsibility organization collection points in a given quarter.

(7) Application of Oregon's Material Management Hierarchy. In cases of conflict between the elements of Oregon's material management hierarchy under ORS 459.015(2)(c)(C)(i) (preference for recycling pathways that displace more impactful materials) and ORS 459.015(2)(c)(C)(ii) (preference for recycling pathways that best preserve value and molecular structure), DEQ may identify the environmentally preferable option among pathways under consideration.

## **Local Government Compensation for Evaluation of Contamination**

### **OAR 340-090-xxxx – Contamination Evaluation Costs at a Location Other than a Commingled Recycling Processing Facility**

(1) Costs incurred by a local governments or a local government's service provider, including reload facilities and limited sort facilities that are also reload facilities, to implement the procedures established by DEQ to meet the requirements of ORS 459A.929(2)(b) are eligible for funding or reimbursement pursuant to ORS 459A.890(3). Such costs include, but not limited to:

- (a) Staffing and administrative costs to carry out the contamination evaluation procedures established by DEQ per ORS 459A.959;
- (b) Costs associated with hiring a contractor to carry out the contamination evaluation procedures established by DEQ per ORS 459A.959; and
- (c) Costs associated with purchase, installation, and ongoing use and maintenance of on-board contamination monitoring equipment and software for use on collection vehicles to carry out the contamination evaluation procedures established by DEQ per ORS 459A.959.

(2) The following costs are not eligible for funding or reimbursement pursuant to ORS 459A.890(3):

- (a) Costs associated with system expansion requests made under OAR 340-090-0800;

- (b) Costs for contamination reduction programming compensated under ORS 459A.890(4);
- (c) Staffing and administration costs beyond what is necessary to carry out the contamination evaluation procedures established by DEQ per ORS 459A.959;
- (d) Costs incurred at limited sort facilities that are not also reload facilities; and
- (e) Costs incurred at commingled recycling processing facilities.

## Local Government Compensation for Contamination Reduction Programming

### Amended OAR 340-090-0810 – Local Government Compensation and Invoicing

\*\*\*\*(2) 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. A local government, a local government's service provider, or other person authorized by a local government must use the certified population estimates from the previous year to calculate the amount of contamination reduction programming compensation for the upcoming fiscal year, July 1 through June 30. If using an alternate approved data source, the most recent population estimate available on January 15 of each year must be used to calculate the amount of contamination reduction programming compensation for the upcoming fiscal year, July 1 through June 30.~~

(3) A local government, local government's service provider, or other person authorized by a local government to receive payment:

(a) Shall receive up to \$3 per capita of funding or reimbursement for eligible costs incurred to conduct contamination reduction programming pursuant to ORS 459A.890(4) each fiscal year, and

(b) May request advance funding for eligible costs under ORS 459A.890(4). Local governments with a population of no more than 50,000, the local government's service provider or other authorized person, may request and receive up to two years of advanced funding.

### OAR 340-090-0850

## 2024 Annual Reporting

A producer responsibility organization must include in its annual report for 2025 an addendum that provides a complete accounting of costs incurred in 2024 relating to activities described in ORS 459A.887(2)(e) to (i). The addendum should contribute to demonstrating that fees are adequate to cover the costs of the program, including start-up costs incurred prior to the start date.

**340-090-0700**

**Market Share**

Market share as used in ORS 459A.860 to 968 and related rules is a producer's percentage of all covered products sold in or into this state, as calculated in accordance with this rule.

(1) Methods for Calculating Market Share. Market share will be calculated as follows:

(a) Market share will be denominated by the percentage of weight (mass) of covered product measured in kilograms.

(b) A producer's market share will be calculated by dividing the weight of all covered products reported as sold or distributed by the producer in or into Oregon in a particular program year by the total weight of all covered products reported as sold or distributed by all producers in or into Oregon in that year. The sum of market shares across all producers must equal 1.0000.

(c) A producer responsibility organization's market share will be calculated by dividing the summed weight of all covered products reported as sold or distributed by all of the producer responsibility organization's member producers in or into Oregon in a particular program year by the total weight of all covered products reported as sold or distributed by all producers in or into Oregon in that year. The sum of market shares across all producer responsibility organizations must equal 1.0000.

(d) A producer must on an annual basis submit market data establishing the weight of covered products sold or distributed in or into Oregon to the producer responsibility organization to which it belongs. Producers must submit a description of their methodology for calculating covered product weight to the producer responsibility organization along with the data. Methodology used must be in accordance with applicable best practices. If estimated market data is submitted by a producer and better market data becomes available that demonstrates the estimates were not accurate, the producer must report corrections to the estimated data to the producer responsibility organization before the next annual reporting deadline.

(e) When submitting market data to DEQ in an annual report, a producer responsibility organization will submit the methodological justifications along with the corresponding data.

(2) Purpose of and Method for Calculating Modified Market Share. If DEQ approves more than one producer responsibility organization plan pursuant to ORS 459A.878, financial obligations of implementation of provisions ORS 459A.860 to 459A.975, including the costs of implementing assigned coordination tasks prior to the program start date per OAR 340-090-0680(1)(c), will be allocated among the producer responsibility organizations by modified market share, as provided by this section.

(a) Modified market share will be denominated in percentage of financial burden measured in US dollars.

(b) A producer responsibility organization's modified market share will be calculated as follows:

(A) The material-specific unit factor, described in subsection c of this section, is multiplied by the total weight of covered products of each material reported as sold or distributed in or into Oregon by each member producer;

(B) The results of paragraph A for each material and each member producer of the producer responsibility organizations are summed;

(C) the weight of all covered product of each material reported as sold or distributed in or into Oregon in a given year is multiplied by the material-specific unit factors and the result for each material are summed;

(D) The result of paragraph B is divided by the result of paragraph C.

(E) The result of paragraph D is a producer responsibility organization's modified market share. The sum of modified market shares across all producer responsibility organizations must equal 1.0000.

(c) The method and process for calculating material-specific unit factors for individual materials shall be included in any coordination plan approved by DEQ pursuant to OAR 340-090-0680. During the period of interim coordination pursuant to OAR 340-090-0680(1), DEQ will contract with an independent organization to develop and update as necessary an index of material-specific unit factors.

(3) Interim Reporting of Market Share. By August 1, 2025, a producer responsibility organization must report information that will be used to calculate "interim market share" and "interim modified market share" for the 2025 program year to DEQ. Interim market share for the 2025 program year is ~~estimated market share for July 1—December 31, 2025~~, calculated using from estimates of the weight of covered product sold into Oregon in the 2024 calendar year by each member producer, organized by type of material. ~~Interim modified market share is estimated modified market share for July 1—December 31, 2025, calculated from these same producer estimates.~~ Pursuant to ORS 459A.869(12), a producer responsibility organization's minimum interim market share is 10%.

(4) Preliminary Reporting of Market Share. Preliminary market share and preliminary modified market share will be calculated and used as follows:

(a) By July 1 of each program year, a producer responsibility organization shall report supply information on the total amount of covered products sold or distributed in or into this state by participating producers in the prior calendar year to DEQ annually, pursuant to ORS 459A.887(2)(c). Beginning in the 2026 program year, DEQ and a producer responsibility organization coordination body will use the supply information to calculate preliminary market share and preliminary modified market share for the following program year.

(b) A producer responsibility organization shall use the supply information described in subsection (a) to set fees for their producer members in accordance with ORS 459A.884(1). A producer responsibility organization will set producer fees using supply data from two years prior.

(c) A producer responsibility organization shall use interim market share and interim modified market share, as described in Section (3) of this rule, for the 2025 program year as preliminary market share and preliminary modified market share for the 2026 program year.

(5) Final Reporting of Market Share. Final market share and final modified market share will be calculated and used as follows:

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(a) By March 31 of the following program year, a producer responsibility organization must submit corrections to the supply information used to calculate interim and preliminary market share and modified market share, as described in sections 3 and 4. The corrected data will be used to calculate final market share and final modified market share for the applicable program year.

(b) If there is more than one producer responsibility organization expenses must be reconciled between the producer responsibility organizations in proportion to final modified market share.

(6) DEQ may use interim, preliminary, or final market share or modified market share data for its administration and oversight purposes, including for enforcement of the 10 percent minimum PRO market share for operation in the state pursuant to ORS 459A.869(12) and identification of large producers subject to the additional disclosure requirement at ORS 459A.944(2). DEQ will use updated supply data for its administration and oversight purposes as it becomes available.



## 4. Producer Obligations

**OAR 340-090-0860**

### **Producer Definition**

(1) For purposes of ORS 459A.866(1)(a):

(a) A person that manufactures a packaged item includes a person that directs the manufacturing of the item, including setting specifications for an item's packaging. Purchasing or ordering an item for retail sale in the normal course of business is not directing manufacturing.

(b) The manufacturer's own brand includes any brand or trademark that the manufacturer wholly owns or co-owns according to the United States Patent and Trademark Office.

(2) The producer of a storage item sold at a physical retail location in this state shall be determined as follows:

(a) If the storage item is sold under the manufacturer's own brand or is sold without identification of a brand, the producer of the storage item is the person that manufactures the storage item;

(b) If the storage item is manufactured by a person other than the brand owner, the producer of the storage item is the person that is the licensee of a brand or trademark under which the storage item is used in a commercial enterprise, sold, offered for sale or distributed in or into this state, whether or not the trademark is registered in this state; or

(c) If there is no person described in subparagraphs (A) and (B) of this paragraph within the United States, the producer of the storage item is the person that imports the storage item into the United States for use in a commercial enterprise that sells, offers for sale or distributes the item in this state.

(3) The producer of consumer wraps sold at a physical retail location in this state shall be determined as follow:

(a) If the consumer wrap is sold in packaging under the manufacturer's own brand or is sold without identification of a brand, the producer of the consumer wrap is the person that manufactures the consumer wrap;

(b) If the consumer wrap is manufactured by a person other than the brand owner, the producer of the consumer wrap is the person that is the licensee of a brand or trademark under which the consumer wrap is used in a commercial enterprise, sold, offered for sale or distributed in or into this state, whether or not the trademark is registered in this state; or

(c) If there is no person described in subparagraphs (A) and (B) of this paragraph within the United States, the producer of the consumer wrap is the person that imports the consumer

wrap into the United States for use in a commercial enterprise that sells, offers for sale or distributes the item in this state.

(4) For service packaging sold or provided to a consumer at a physical retail location in this state, the producer of the service packaging is the person that first distributes the packaging in or into this state.

(5) For purposes of ORS 459A.863(8) and (32) a producer includes associate producers as provided by this section.

(a) Associated producers are two or more producers that are:

(A) Owned by members of the same family, including siblings, spouses, ancestors, and lineal descendants, and engaged in the same type of business activity;

(B) Jointly-owned where one producer owns or controls, directly or indirectly, more than 50 percent of the outstanding stock, membership, partnership or similar interests of the other producer or producers;

(C) Members of the same controlled group as defined in Section 1563(a) of the Internal Revenue Code;

(D) A fiduciary or fiduciaries of a trust and a corporation of which more than 50 percent in value of the outstanding stock is owned or controlled by the trust or by a person who is a grantor of the trust;

(E) A corporation and a partnership or LLC, or partnerships or LLCs, if the same persons own or control more than 50 percent of the outstanding stock, or more than 50 percent of the interest, of the corporation and of the partnership or LLC;

(F) S corporations or C corporations if the same persons own or control more than 50 percent of the outstanding stock of each or all corporations.

(b) Associated producers' data on covered product sold in or into the state and gross annual revenues must be aggregated for the purpose of applying the large producer and small producer definitions.

## **OAR 340-090-0870**

### **Producer Pre-Registration**

A producer that intends to sell, offer for sale or distribute covered products in or into this state on or after July 1, 2025 must pre-register with and submit data on covered products sold in or into the state in 2024 to a producer responsibility organization no later than March 31, 2025. Failure to pre-register does not prevent a producer from registering with a producer responsibility organization and beginning to pay member fees on or after July 1, 2025.

## 5. Standards for Life Cycle Evaluations

Please see supplemental document **Preliminary Draft Rule Summary: Standards for Life Cycle Evaluations** for a description of technical details that will be contained in draft rules for public comment later in 2024.

## 6. Local Government Obligations

**OAR 340-090-0880**

### **Contamination Reduction Programming Elements**

(1) A local government or local government's service provider must implement a contamination reduction program pursuant to ORS 459A.929(2) that includes but is not limited to the following elements:

(a) Customer-facing contamination reduction materials and methods that are responsive to the needs of diverse populations;

(b) Feedback to generators that contribute to contamination that is responsive to the needs of diverse populations; and

(c) Financial or service consequences to generators that are significant and repeated sources of contamination and that continue to contaminate separated recyclables after being subject to elements described in subsection (a) and (b) of this section. Consequences must be responsive to the conditions of diverse populations.

(2) To be responsive to the needs or conditions of diverse populations as provided by section 1 of this rule a local government must ensure information related to the elements in section 1 of this rule is reasonably accessible to all people that recycle, regardless of background, ability, preferred language, access to technology, or where they live or work. A local government must implement best practices for accessibility, including but not limited to the following, as appropriate and when practicable:

(A) Information is easy to understand. Messaging is clear and simple, using common words and short sentences.

(B) Written materials and websites follow accessible design principles and use design elements such as headings, bullets, images, and white space to improve readability. Local governments comply with Section 508 of the Rehabilitation Act, 29 U.S.C. § 798.

(C) Assistance is provided in multiple ways. Recipients can learn more and ask questions via phone, email, online, or in person. Local governments and service providers offer assistance in the customer's preferred language when practicable.

(D) Information is translated into or made available in commonly spoken languages. When practicable, information is created in collaboration with those who speak the language fluently to ensure the content is culturally relevant to the language group.

(E) Information is inclusive and culturally relevant to all community members. Local governments or their service providers tailor the approach and delivery to the intended audience and incorporate imagery of products and people that represent a variety of cultures and Oregon's diverse communities.

(3) Financial or service consequences pursuant to subsection 1(c) of this rule must be in accordance with this section.

(a) Local governments and service providers must implement the following procedures before applying consequences:

(A) Contamination must be identified using a method that is applied consistently and equitably across all customers.

(B) For all instances where significant recycling contamination is documented, targeted feedback must be provided to the customer and tenants and documented. To qualify as significant, recycling contamination must be documented and consist of either:

(i) The presence in materials set out for recycling of one or more hazardous contaminants including but not limited to batteries, pressurized gas cylinders, aerosol containers, sharps, human or animal waste; and other objects that reasonably present a hazard or

(ii) The presence in materials set out for recycling of at least 25% by volume of materials that are not on the Uniform Statewide Collection List pursuant to ORS 459A.914 (1)(a).

(C) The customer must be notified and provided an opportunity to remedy after the local government or service provider determines significant and repeated recycling contamination has occurred. Notification includes documentation of the contamination, available remedy options, potential consequences if a remedy option is not pursued, and timeline for responding. To qualify as repeated, recycling contamination must be documented as significant and occur at least three times within a consecutive three-month period.

(D) Assistance must be provided to confirm customer understanding and identify barriers to compliance. Such assistance must be responsive to the needs of diverse populations as described in section 2 of this rule. Customer communications and agreed-upon actions must be documented.

(b) A local government or service provider may apply consequences if the customer refuses the opportunity to remedy provided by Paragraph (a)(C) of this Section or if the local government or service provider does not receive a response after at least two attempts to contact the customer.

(4) Any financial or service consequences pursuant to subsection 1(c) of this rule should be corrective rather than punitive, set to reflect the goal of maintaining the value of the collected recyclables, including but not limited to:

(a) Financial consequences must relate to the increased costs associated with managing contaminated recycling, providing technical assistance, conducting additional outreach, or other steps needed to improve the quality of the recycling.

(b) Service consequences must affect only recycling collection;

(c) The opportunity to recycle must be maintained. Service consequences may not be applied to multi-tenant customers. At single-family rentals, the tenants must be notified prior to implementing service consequences.

(d) Consequences must be temporary and include a clear path for removal.

### **OAR 340-090-0030(7)(b)**

### **Multifamily Recycling Enclosures**

(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:

(a) Provide on-route collection service for source separated recyclable materials identified in OAR 340-090-0630(4)(b) at least once a month for all collection service customers within the city limits and within the urban growth boundary or metropolitan service district but outside of the city limits.

~~(b) Effective July 1, 2026 for the recycling collection of materials identified on the uniform statewide collection list at multifamily properties:~~

~~(A) Ensure adequate space for collection.~~

~~(B) Demonstrate a plan to ensure adequate space and access for collection vehicles after new construction or significant remodels.~~

~~(C) Update or establish service standards for service providers to provide adequate service volume or collection frequency, or a combination of both.~~

~~(D) Ensure that container placement is accessible to residents, including children and individuals who use a wheelchair, while giving consideration to resident and user safety considerations.~~

~~(E) Report on activities to meet the requirements of this subsection in the periodic report submitted according to the requirements of OAR 340-090-0100.~~

b) To comply with the requirements of ORS 459A.911 to ensure adequate space for the recycling collection of materials identified on the uniform statewide collection list at multifamily properties, a local government shall submit an implementation plan to DEQ in a manner and form prescribed by DEQ and shall report on activities undertaken to execute the implementation plan in the periodic report submitted according to the requirements of OAR 340-090-0100. The implementation plan shall be submitted to DEQ by November 1, 2027 and implementation shall be initiated by January 1, 2030. The implementation plan shall describe how the local government will:

(A) Ensure adequate space for collection and access for collection vehicles after new construction or significant remodels.

(B) Ensure adequate space for collection in existing buildings.

(C) Update or establish service standards for service providers to provide adequate service volume or collection frequency, or a combination of both.

(D) Ensure that container placement is accessible to residents, including children and individuals who use a wheelchair, while giving consideration to resident and user safety considerations.

## 7. Other Rules

### Division 012 Enforcement Procedure and Civil Penalties

#### **OAR-340-012-0065**

#### **Solid Waste Management Classification of Violations**

(1) Class I:

- (a) Establishing or operating a disposal site without first obtaining a registration or permit;
- (b) Accepting solid waste for disposal in a permitted solid waste unit or facility that has been expanded in area or capacity without first submitting plans to DEQ and obtaining DEQ approval;
- (c) Disposing of or authorizing the disposal of a solid waste at a location not permitted by DEQ to receive that solid waste;
- (d) Violating a lagoon freeboard limit that results in the overflow of a sewage sludge or leachate lagoon;
- (e) Accepting for treatment, storage, or disposal at a solid waste disposal site, without approval from DEQ, waste defined as hazardous waste, waste from another state which is hazardous under the laws of that state, or wastes prohibited from disposal by statute, rule, permit, or order;
- (f) Failing to properly construct, maintain, or operate in good functional condition, groundwater, surface water, gas or leachate collection, containment, treatment, disposal or monitoring facilities in accordance with the facility permit, DEQ approved plans, or DEQ rules;

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(g) Failing to collect, analyze or report groundwater, surface water or leachate quality data in accordance with the facility permit, the facility environmental monitoring plan, or DEQ rules;

(h) Mixing for disposal or disposing of recyclable material that has been properly prepared and source separated for recycling;

(i) Failing to establish or maintain financial assurance as required by statute, rule, permit or order;

(j) Failing to comply with the terms of a permit terminated due to a failure to submit a timely application for renewal; or

(k) Operating a composting facility in a manner that causes a discharge to surface water of pollutants, leachate or stormwater when that discharge is not authorized by a NPDES permit.

(l) Establishing or operating a commingled recycling processing facility or a limited sort facility in Oregon without first obtaining a required disposal site permit.

(m): Operating a commingled recycling processing facility, a commingled recycling reload facility, a recycling reload facility, or a limited sort facility that fails to comply with performance standards set forth in DEQ statutes or rules.

(2) Class II:

(a) Failing to accurately report the amount of solid waste disposed, by a permitted disposal site or a metropolitan service district;

(b) Failing to timely or accurately report the weight and type of material recovered or processed from the solid waste stream;

(c) Failing to comply with landfill cover requirements, including but not limited to daily, intermediate, and final covers, or limitation of working face size;

(d) Operating a Household Hazardous Waste (HHW) collection event or temporary site without first obtaining DEQ approval or without complying with an approved plan for a HHW collection event;

(e) Receiving or managing waste in violation of or without a DEQ-approved Special Waste Management Plan; or

(f) Unless otherwise specifically classified, operating a composting facility in a manner that fails to comply with the facility's registration, permit, DEQ-approved plans or DEQ rules.

(g): Failing to keep complete and accurate records or timely submit reports for a commingled recycling processing facility, a commingled recycling reload facility, a recycling reload facility, or a limited sort facility.

(h) Violating any otherwise unclassified requirement for a commingled recycling processing facility, a commingled recycling reload facility, a recycling reload facility, or a limited sort facility.

(3) Class III:

(a) Failing to post required signs;

(b) Failing to control litter; or

(c) Failing to notify DEQ of any name or address change; ~~or~~

~~(d) Violating any labeling requirement under ORS 459A.675-685.~~

Statutory/Other Authority: ORS 459.045 & 468.020

Statutes/Other Implemented: ORS 459.205, 459.376, 459.995 & 468.090 - 468.140

### **OAR-340-012-0140**

#### **Determination of Base Penalty**

(1) Except for Class III violations and as provided in OAR 340-012-0155, the base penalty (BP) is determined by applying the class and magnitude of the violation to the matrices set forth in this section. For Class III violations, no magnitude determination is required.

(2) \$12,000 Penalty Matrix:

(a) The \$12,000 penalty matrix applies to the following:

(A) Any violation of an air quality statute, rule, permit or related order committed by a person that has or should have a Title V permit or an Air Contaminant Discharge Permit (ACDP) issued pursuant to New Source Review (NSR) regulations or Prevention of Significant Deterioration (PSD) regulations, or section 112(g) of the federal Clean Air Act, unless otherwise classified.

(B) Open burning violations as follows:

(i) Any violation of OAR 340-264-0060(3) committed by an industrial facility operating under an air quality permit.

(ii) Any violation of OAR 340-264-0060(3) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned, except when committed by a residential owner-occupant.

(C) Any violation of the Oregon Low Emission and Zero Emission Vehicle rules (OAR 340-257) by a vehicle manufacturer.

(D) Any violation of ORS 468B.025(1)(a) or (1)(b), or of 468B.050(1)(a) by a person without a National Pollutant Discharge Elimination System (NPDES) permit, unless otherwise classified.

(E) Any violation of a water quality statute, rule, permit or related order by:

(i) A person that has an NPDES permit, or that has or should have a Water Pollution Control Facility (WPCF) permit, for a municipal or private utility sewage treatment facility with a permitted flow of five million or more gallons per day.

(ii) A person that has a Tier 1 industrial source NPDES or WPCF permit.



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(iii) A person that has a population of 100,000 or more, as determined by the most recent national census, and either has or should have a WPCF Municipal Stormwater Underground Injection Control (UIC) System Permit, or has an NPDES Municipal Separated Storm Sewer Systems (MS4) Stormwater Discharge Permit.

(iv) A person that installs or operates a prohibited Class I, II, III, IV or V UIC system, except for a cesspool.

(v) A person that has or should have applied for coverage under an NPDES Stormwater Discharge 1200-C General Permit for a construction site that disturbs 20 or more acres.

(F) Any violation of the ballast water statute in ORS Chapter 783 or ballast water management rule in OAR 340, division 143.

(G) Any violation of a Clean Water Act Section 401 Water Quality Certification by a 100 megawatt or more hydroelectric facility.

(H) Any violation of a Clean Water Act Section 401 Water Quality Certification for a dredge and fill project except for Tier 1, 2A or 2B projects.

(I) Any violation of an underground storage tanks statute, rule, permit or related order committed by the owner, operator or permittee of 10 or more UST facilities or a person who is licensed or should be licensed by DEQ to perform tank services.

(J) Any violation of a heating oil tank statute, rule, permit, license or related order committed by a person who is licensed or should be licensed by DEQ to perform heating oil tank services.

(K) Any violation of ORS 468B.485, or related rules or orders regarding financial assurance for ships transporting hazardous materials or oil.

(L) Any violation of a used oil statute, rule, permit or related order committed by a person who is a used oil transporter, transfer facility, processor or re-refiner, off-specification used oil burner or used oil marketer.

(M) Any violation of a hazardous waste statute, rule, permit or related order by:

(i) A person that is a large quantity generator or hazardous waste transporter.

(ii) A person that has or should have a treatment, storage or disposal facility permit.

(N) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a covered vessel or facility as defined in ORS 468B.300 or by a person who is engaged in the business of manufacturing, storing or transporting oil or hazardous materials.

(O) Any violation of a polychlorinated biphenyls (PCBs) management and disposal statute, rule, permit or related order.

(P) Any violation of ORS Chapter 465, UST or environmental cleanup statute, rule, related order or related agreement.

(Q) Unless specifically listed under another penalty matrix, any violation of ORS Chapter 459 or any violation of a solid waste statute, rule, permit, or related order committed by:

(i) A person that has or should have a solid waste disposal permit.

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(ii) A city with a population of 25,000 or more, as determined by the most recent national census.

(R) Any violation of the Oregon Clean Fuels Program under OAR Chapter 340, division 253 by a person registered as an importer of blendstocks,

(S) Any violation classified under OAR 340-012-0054 (1) (dd), (ee), (ff), or (gg).

(T) Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions greater than or equal to 25,000 metric tons per year or by a person that has not reported greenhouse gas emissions to DEQ during the past five years, or by a person for which DEQ has insufficient information to accurately estimate emissions.

(U) Any violation of the Third Party Verification rules under OAR Chapter 340, division 272.

(V) Any violation of the Landfill Gas Emissions rules under OAR chapter 340, division 239 by a person required to comply with OAR 340-239-0110 through OAR 340-239-0800.

(W) Any violation of the rules for Emission Standards for New Heavy-Duty Trucks under OAR chapter 340 division 261 by engine, truck or trailer manufacturers and dealers.

(X) Any violation of the Climate Protection Program rules under OAR chapter 340, division 271.

(Y) Any violation of the Fuel Tank Seismic Stability Program rules under OAR chapter 340, division 300.

(Z) Any violation of ORS 459A.860 to 459A.975 or related rules committed by:

(i) A producer responsibility organization.

(ii) A producer.

(iii) A person that has or should have a permit for a commingled recycling processing facility or a limited sort facility.

(iv) A local government with a population of 25,000 or more, as determined by the most recent national census.

(b) The base penalty values for the \$12,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$12,000;

(ii) Moderate — \$6,000;

(iii) Minor — \$3,000.

(B) Class II:

(i) Major — \$6,000;

(ii) Moderate — \$3,000;

(iii) Minor — \$1,500.

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(C) Class III: \$1,000.

(3) \$8,000 Penalty Matrix:

(a) The \$8,000 penalty matrix applies to the following:

(A) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have an ACDP permit, except for NSR, PSD and Basic ACDP permits, unless listed under another penalty matrix, unless otherwise classified.

(B) Any violation of an asbestos statute, rule, permit or related order except those violations listed in section (5) of this rule.

(C) Any violation of a vehicle inspection program statute, rule, permit or related order committed by an auto repair facility.

(D) Any violation of the Oregon Low Emission Vehicle rules (OAR 340-257) committed by an automobile dealer or an automobile rental agency.

(E) Any violation of a water quality statute, rule, permit or related order committed by:

(i) A person that has an NPDES Permit, or that has or should have a WPCF Permit, for a municipal or private utility sewage treatment facility with a permitted flow of two million or more, but less than five million, gallons per day.

(ii) A person that has a Tier 2 industrial source NPDES or WPCF Permit.

(iii) A person that has or should have applied for coverage under an NPDES or a WPCF General Permit, except an NPDES Stormwater Discharge 1200-C General Permit for a construction site of less than five acres in size or 20 or more acres in size.

(iv) A person that has a population of less than 100,000 but more than 10,000, as determined by the most recent national census, and has or should have a WPCF Municipal Stormwater UIC System Permit or has an NPDES MS4 Stormwater Discharge Permit.

(v) A person that owns, and that has or should have registered, a UIC system that disposes of wastewater other than stormwater or sewage or geothermal fluids.

(F) Any violation of a Clean Water Act Section 401 Water Quality Certification by a less than 100 megawatt hydroelectric facility.

(G) Any violation of a Clean Water Act Section 401 Water Quality Certification for a Tier 2A or Tier 2B dredge and fill project.

(H) Any violation of an UST statute, rule, permit or related order committed by a person who is the owner, operator or permittee of five to nine UST facilities.

(I) Unless specifically listed under another penalty matrix, any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by:

(i) A person that has or should have a waste tire permit; or

(ii) A person with a population of more than 5,000 but less than or equal to 25,000, as determined by the most recent national census.

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(J) Any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a small quantity generator.

(K) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a person other than a person listed in OAR 340-012-0140(2)(a)(N) occurring during a commercial activity or involving a derelict vessel over 35 feet in length.

(L) Any violation of the Oregon Clean Fuels Program under OAR chapter 340, division 253 unless the violation is otherwise classified in this rule.

(M) Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions less than 25,000 metric tons per year but greater than or equal to 5,000 metric tons per year.

(N) Any violation of the Landfill Gas Emissions rules under OAR chapter 340, division 239 by a person that owns or operates a landfill with over 200,000 tons waste in place and is not required to comply with OAR 340-239-0110 through OAR 340-239-0800.

(O) Any violation of a hazardous waste pharmaceutical statute, rule, permit or related order committed by a person that is a reverse distributor.

(P) Any violation of ORS 459A.860 to 459A.975 or related rules committed by a local government with a population of more than 5,000 but less than or equal to 25,000, as determined by the most recent national census.

(b) The base penalty values for the \$8,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$8,000.

(ii) Moderate — \$4,000.

(iii) Minor — \$2,000.

(B) Class II:

(i) Major — \$4,000.

(ii) Moderate — \$2,000.

(iii) Minor — \$1,000.

(C) Class III: \$ 700.

(4) \$3,000 Penalty Matrix:

(a) The \$3,000 penalty matrix applies to the following:

(A) Any violation of any statute, rule, permit, license, or order committed by a person not listed under another penalty matrix.

(B) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person not listed under another penalty matrix.

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(C) Any violation of an air quality statute, rule, permit, permit attachment, or related order committed by a person that has or should have a Basic ACDP or an ACDP or registration only because the person is subject to Area Source NESHAP regulations.

(D) Any violation of OAR 340-264-0060(3) in which 25 or more cubic yards of prohibited materials or more than 15 tires are burned by a residential owner-occupant.

(E) Any violation of a vehicle inspection program statute, rule, permit or related order committed by a natural person, except for those violations listed in section (5) of this rule.

(F) Any violation of a water quality statute, rule, permit, license or related order not listed under another penalty matrix and committed by:

(i) A person that has an NPDES permit, or has or should have a WPCF permit, for a municipal or private utility wastewater treatment facility with a permitted flow of less than two million gallons per day.

(ii) A person that has or should have applied for coverage under an NPDES Stormwater Discharge 1200-C General Permit for a construction site that is more than one, but less than five acres.

(iii) A person that has a population of 10,000 or less, as determined by the most recent national census, and either has an NPDES MS4 Stormwater Discharge Permit or has or should have a WPCF Municipal Stormwater UIC System Permit.

(iv) A person who is licensed to perform onsite sewage disposal services or who has performed sewage disposal services.

(v) A person, except for a residential owner-occupant, that owns and either has or should have registered a UIC system that disposes of stormwater, sewage or geothermal fluids.

(vi) A person that has or should have a WPCF individual stormwater UIC system permit.

(vii) Any violation of a water quality statute, rule, permit or related order committed by a person that has or should have applied for coverage under an NPDES 700-PM General Permit for suction dredges.

(G) Any violation of an onsite sewage disposal statute, rule, permit or related order, except for a violation committed by a residential owner-occupant.

(H) Any violation of a Clean Water Act Section 401 Water Quality Certification for a Tier 1 dredge and fill project.

(I) Any violation of an UST statute, rule, permit or related order if the person is the owner, operator or permittee of two to four UST facilities.

(J) Any violation of a used oil statute, rule, permit or related order, except a violation related to a spill or release, committed by a person that is a used oil generator.

(K) Any violation of a hazardous waste management statute, rule, permit or related order committed by a person that is a very small quantity generator, unless listed under another penalty matrix.

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(L) Any violation of ORS Chapter 459 or other solid waste statute, rule, permit, or related order committed by a person with a population less than 5,000, as determined by the most recent national census.

~~(M) Any violation of the labeling requirements of ORS 459A.675 through 459A.685.~~

~~(N)~~ Any violation of rigid pesticide container disposal requirements by a very small quantity generator of hazardous waste.

~~(O)~~(N) Any violation of ORS 468B.025(1)(a) or (b) resulting from turbid discharges to waters of the state caused by non-residential uses of property disturbing less than one acre in size.

~~(P)~~(O) Any violation of an oil and hazardous material spill and release statute, rule, or related order committed by a person not listed under another matrix.

~~(Q)~~ (P) Any violation of the Oregon Greenhouse Gas Reporting Program under OAR Chapter 340, division 215 by a person with greenhouse gas emissions less than 5,000 metric tons per year.

(b) The base penalty values for the \$3,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$3,000;

(ii) Moderate — \$1,500;

(iii) Minor — \$750.

(B) Class II:

(i) Major — \$1,500;

(ii) Moderate — \$750;

(iii) Minor — \$375.

(C) Class III: \$250.

(5) \$1,000 Penalty Matrix:

(a) The \$1,000 penalty matrix applies to the following:

(A) Any violation of an open burning statute, rule, permit or related order committed by a residential owner-occupant at the residence, not listed under another penalty matrix.

(B) Any violation of visible emissions standards by operation of a vehicle.

(C) Any violation of an asbestos statute, rule, permit or related order committed by a residential owner-occupant.

(D) Any violation of an onsite sewage disposal statute, rule, permit or related order of OAR chapter 340, division 44 committed by a residential owner-occupant.

(E) Any violation of an UST statute, rule, permit or related order committed by a person who is the owner, operator or permittee of one UST facility.

(F) Any violation of an HOT statute, rule, permit or related order not listed under another penalty matrix.

(G) Any violation of OAR chapter 340, division 124 or ORS 465.505 by a dry cleaning owner or operator, dry store owner or operator, or supplier of perchloroethylene.

(H) Any violation of ORS Chapter 459 or other solid waste statute, rule or related order committed by a residential owner-occupant.

(I) Any violation of a statute, rule, permit or order relating to rigid plastic containers, ~~except for violation of the labeling requirements under OAR 459A.675 through 459A.685.~~

(J) Any violation of a statute, rule or order relating to the opportunity to recycle.

(K) Any violation of OAR chapter 340, division 262 or other statute, rule or order relating to solid fuel burning devices, except a violation related to the sale of new or used solid fuel burning devices or the removal and destruction of used solid fuel burning devices.

(L) Any violation of an UIC system statute, rule, permit or related order by a residential owner-occupant, when the UIC disposes of stormwater, sewage or geothermal fluids.

(M) Any Violation of ORS 468B.025(1)(a) or (b) resulting from turbid discharges to waters of the state caused by residential use of property disturbing less than one acre in size.

(N) Any violation of ORS 459A.860 to 459A.975 or related rules committed by a person not listed under another matrix.

(b) The base penalty values for the \$1,000 penalty matrix are as follows:

(A) Class I:

(i) Major — \$1,000;

(ii) Moderate — \$500;

(iii) Minor — \$250.

(B) Class II:

(i) Major — \$500;

(ii) Moderate — \$250;

(iii) Minor — \$125.

(C) Class III: \$100.

Statutory/Other Authority: ORS 459A.975, ORS 468.020 & 468.090 - 468.140

Statutes/Other Implemented: ORS 459.995, 459A.655, 459A.660, ~~459A.685~~ ORS 459A.860 - 459A.975 & 468.035

**OAR-340-012-0098**

**Classification of Violations for ORS 459A.860 to 459A.975 and related rules**

(1) Class I:

- (a) Failing to register or become a member of a producer responsibility organization;
- (b) Failing to establish a producer responsibility organization coordinating body;
- (c) Failing to substantially implement a producer responsibility program plan, plan amendment, or coordination plan as approved, directed, or ordered by DEQ;
- (d) Delivering, or allowing to be delivered, commingled recyclables to a commingled recycling processing facility that does not hold a valid permit issued by DEQ, hold a valid certificate, or meet the requirements of a permit or certificate for a commingled recycling facility; or
- (e) Failing to update a producer responsibility program plan or to take actions specified in a producer responsibility program plan to meet plastic recycling goals.

(2) Class II:

- (a) Failing to submit a plan, study, notification, report, or other required information to DEQ, unless otherwise specified;
- (b) Failing to implement one or more elements of a producer responsibility program plan, plan amendment, or coordination plan as approved, directed, or ordered by DEQ;
- (c) Accepting or promoting for acceptance into a commingled recycling program a material that is not identified on the uniform statewide collection list for collection as part of a commingled recycling program;
- (d) Failing to provide the opportunity to recycle as required by OAR chapter 340, division 90;
- (e) Accepting or promoting for acceptance into a collection program for yard debris or food waste or a compost facility, by a person that operates or controls a collection program for yard debris or food waste or that operates or controls a compost facility, a material that cannot or will not be effectively composted; or
- (f) Violating any otherwise unclassified requirement related to ORS 459A.860 to 459A.975 or related rules.

Statutory/Other Authority: ORS 459A.975 and 468.020

Statutes/Other Implemented: ORS 459A.860 - 459A.975

**340-090-0630**

**Recycling Acceptance Lists**

(1) Recycling list definitions. For purposes of the recycling acceptance lists under sections 2 and 3 of this rule, the terms below have the following meanings:

- (a) "Aerosol can" has the same meaning found in 40 CFR 273.9.



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(b) "Aseptic carton" means a shelf-stable package made for a food or beverage product that is made mainly of paperboard, but also includes protective layers of polyethylene and aluminum.

(c) "Bottle" means a rigid container with or without a handle and with a neck or mouth smaller than the base.

(d) "Cap" means a rigid closure for tubs or bottles that has a fastening feature that involves threads.

(e) "HDPE" means high density polyethylene.

(f) "Lid" means a rigid closure for tubs that has a fastening feature other than threads.

~~(g) "Non-metallized gift wrap" means paper gift wrap devoid of non-paper additives like metallic flakes, glitter, metalized mylar or any similar material.~~

(g) "PE" means polyethylene and includes HDPE, low density polyethylene and linear low density polyethylene.

(h) "PET" means polyethylene terephthalate.

(i) "PP" means polypropylene.

(j) "Pressurized cylinder" means any packaging containing flammable pressurized gas, helium or carbon dioxide, including, but not limited to, seamless cylinders and tubes, welded cylinders and insulated cylinders intended to contain helium, carbon dioxide or flammable materials such as propane, butane or other flammable compressed gases. "Pressurized cylinder" does not include:

(A) any cylinder, tube or container intended to deliver a product that is not a compressed gas;

(B) liquified petroleum gas containers that are designed to be refilled;

(C) any other cylinder, tube or container that is designed to be refilled and which has an active and functioning exchange system that normally causes the cylinder, tube or container to be refilled, reused, or refurbished, unless the cylinder, tube or container is damaged and not appropriate to be subsequently refilled, reused, or refurbished;

(D) any cylinder, tube or container that contains pure oxygen or hydrogen;

(E) fire extinguishers;

(F) aerosol cans; or

(G) a storage tank that is permanently fixed in location.

(k) "Recycle-compatible coating" means a water-soluble barrier that can be used on fiber-based packaging that does not negatively impact the recyclability of that packaging.

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(l) “Scrap metal” means ferrous and non-ferrous waste metal, metallic material, electrical wiring and any product that contains at least 50 percent metal by weight and that is capable of being recycled. Scrap metal includes major appliances that contain refrigerants.

(m) “Tub” means a rigid container that has a neck or mouth similar in size to its base. “Tub” does not include a clamshell or similar container with a lid that is affixed to the base using a hinge or similar mechanism.

(2) Local Government Recycling Acceptance List. The following material must be collected pursuant to ORS 459A.005 and ORS 459A.914(1)(a) to provide the opportunity to recycle:

(a) Corrugated cardboard; uncoated or coated with recycle-compatible coating; including pizza boxes;

(b) Paper bags and mailing envelopes, excluding those with a plastic liner;

(c) Paperboard boxes and packaging, such as cereal, cracker and medicine boxes, excluding any non-paper flexible packaging inside such boxes or packaging, and excluding ~~items used to package goods that are normally placed in a refrigerator or freezer~~ polycoated paperboard packaging, such as packaging used for refrigerated or frozen food products;

(d) Polycoated cartons (for example milk cartons) and aseptic cartons;

(e) Molded pulp packaging, excluding food serviceware ~~that is designed to be in direct contact with food~~;

(f) Tissue paper used for packaging;

~~(g) Non-metalized gift wrap;~~

(h) All printing and writing paper, including newspaper, newsprint, newspaper inserts, magazines, catalogs, similar glossy paper, telephone directories, ledger, bond, copy and printer paper, notebook paper, envelopes, cards, mail, and items made of such paper and bound with staples, and paperback books, but excluding thermal paper and hardcover books;

(i) File folders and hanging files;

(j) Plastic that fits loosely in the generator’s provided on-route collection container, excluding any such item that was used to contain or store motor oil, antifreeze, or other automotive fluids, pesticides or herbicides, or other hazardous materials (flammable, corrosive, reactive, toxic), as follows:

(A) Plastic bottles that measure at least two inches in each of two or more dimensions, including caps if screwed on, made of the following materials:

(i) PET (#1) (clear only);

(ii) HDPE (#2); and

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(iii) PP (#5)

(B) Plastic tubs that measure at least two inches in each of two or more dimensions, including caps if screwed on, made of the following materials:

(i) PET (#1);

(ii) HDPE (#2); and

(iii) PP (#5)

(C) Plastic buckets, pails, and storage containers, including lids if snapped on, made of the following materials:

(i) HDPE (#2); and

(ii) PP (#5)

(D) Nursery (plant) packaging, such as pots and trays, made of the following materials:

(i) HDPE (#2); and

(ii) PP

(k) Aluminum food, pet food, ~~and~~ beverage cans, and other non-food cans;

(l) Steel and bi-metal cans, including empty or dry metal paint cans;

(m) Scrap metal weighing less than 10 pounds and smaller than 18" in length, excluding sharp items (for example knives) and bicycle chains, electrical wiring and other wires, and other similar items likely to cause tangling;

(n) Other scrap metal;

(o) Motor oil; and

(p) Glass bottles and jars, but only from non-residential sources and only in the Metro wasteshed (this requirement is in addition to the requirements for glass recycling under section 3 of this rule).

(q) Yard debris, but only in the Metro wasteshed.

(3) Producer Responsibility Organization Recycling Acceptance List. The following materials are designated as covered products of which a producer responsibility organization must provide for the collection through recycling depot or mobile events as provided in ORS 459A.896(1):

(a) Steel and aluminum aerosol cans;

(b) Aluminum foil and products made of pressed aluminum foil;

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(c) Shredded paper;

(d) Polyethylene film and packaging that is:

(A) made of polyethylene film containing a minimum of 90 percent polyethylene and copolymers by weight,

(B) free of intentionally added PET, PVC, PVDC, paper, aluminum, degradable polymers and degradable additives, and

(C) free of or including flexible seals, closures or dispensers so long as they are made of polyethylene and contribute less than 10 percent of the total package by weight;

(e) Plastic buckets and pails ~~and storage containers~~ made of HDPE (#2) or PP (#5) and the lids of such items, but excluding such items if used to contain or store motor oil, antifreeze, or other automotive fluids, pesticides or herbicides, or other hazardous materials (flammable, corrosive, reactive, toxic);

(f) Glass bottles and jars;

(g) Block white expanded polystyrene;

(h) PE and PP lids and caps;

(i) HDPE package handles (for example 6-pack handles); and

(j) Pressurized cylinders.

(4) The materials listed in Section 2 of this rule must be collected as follows:

(a) The materials listed in subsections (a) through (o) must be collected at depots as part of the opportunity to recycle pursuant to ORS 459A.005 and 459A.007;

(b) The materials listed in subsections (a) through (m) are also designated for recycling collection from collection service customers as described in ORS 459A.005(1)(a)(A) and ORS 459A.863(25)(a) to (c);

(c) The materials listed in subsection (p) must be collected from non-residential collection service customers as part of routine collection service described in ORS 459A.005(1)(a)(A) and ORS 459A.863(25)(b), but only in the Metro wasteshed;

(d) The materials listed in subsection (q) must be collected at depots as part of the opportunity to recycle pursuant to ORS 459A.005(1)(a)(A) and from collection service customers as described in ORS 459A.005(1)(a)(A) and ORS 459A.863(25)(a) and (b), but only in the Metro wasteshed; and

(e) The materials listed in subsections (a) through (m) are suitable for commingled collection and are included in the Uniform Statewide Collection List.

(f) In accordance with this subsection, a local government may submit a request for additional time to meet the obligation to collect materials on the Uniform Statewide Collection List pursuant to section 2 of this rule to DEQ for approval, if the local government's ability to successfully collect the materials is dependent on the local government receiving funding for trucks, containers, or a reload facility requested from a producer responsibility organization through the 2023 needs assessment, pursuant to ORS 459A.890(8), and the local government has not yet received the funding. The local government must provide any information requested by DEQ to review the local government's request and describe to the satisfaction of DEQ the local government's process and timeline for complying with the obligation to collect all materials on the Uniform Statewide Collection List pursuant to section 2 of this rule. DEQ may approve the request, with or without conditions, if it determines that the local government's ability to successfully collect the materials that are the subject of the request is dependent on the local government receiving funding for trucks, containers, or a reload facility requested from the producer responsibility organization through the 2023 needs assessment, pursuant to ORS 459A.890(8), and the local government has not yet received the funding.

(g) A producer responsibility organization may propose additions to the Uniform Statewide Collection List as provided in ORS 459A.914(4)(b). To be considered by the department, such a proposal must address, for each material proposed for addition, each of the considerations contained in ORS 459A.914(3).

[Note: ORS 459A.914(4)(b) authorizes additions to the Uniform Statewide Collection List through methods other than rulemaking. Materials not on the Uniform Statewide Collection List shall not be collected commingled with other materials per ORS 459A.914(5). The Uniform Statewide Collection List consists of materials designated in (e) above plus additional materials approved by DEQ pursuant to ORS 459A.914(4)(b). For the full list of materials on the Uniform Statewide Collection List consult Oregon Department of Environmental Quality's Materials Management Program.]

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(5) Materials on the Producer Responsibility Organization Recycling Acceptance List, pursuant to Section 3 of this rule, are not subject to the requirements of ORS 459A.070(1), provided that a producer responsibility organization may not charge for collection of such materials, in accordance with OAR 340-090-0650(1)(b).

## Housekeeping Rule Amendments

### **340-090-0620** **Effective Date**

(1) The following rules which relate to requirements of a producer responsibility organization plan are effective upon filing with the Secretary of State:

(a) OAR 340-090-0640(2)(e)(F), (2)(h) and (6).

(b) OAR 340-090-0650(1)(a), (1)(e) and (2)(b).

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(c) OAR 340-090-0660(2)(b).

(d) OAR 340-090-0670(2)(d), (3)(b) and (3)(e).

(e) OAR 340-090-0720

(f) OAR 340-090-0750.

(g) OAR 340-090-0780.

(h) OAR 340-090-0790.

(i) OAR 340-090-0810(1)(a).

(2) The following rules which relate to producer responsibility organization fees, interim coordination, modified market share and local government identification of service providers are effective upon filing with the Secretary of State:

(a) OAR 340-090-0680.

(b) OAR 340-090-0690.

(c) OAR 340-090-0700(2).

(d) OAR 340-090-0800(3).

(3) All other rules in OAR 340-090-0630 to 0810 and the amendments to OAR 340-090-0005 to 0430 are effective on July 1, 2025.

**Statutory/Other Authority:** ORS 459A.975 & 468.020

**Statutes/Other Implemented:** ORS 459A.860 - 459A.975

**History:**

DEQ 18-2023, adopt filed 11/17/2023, effective 11/17/2023

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