



Oregon Department of Environmental Quality

# Plain Language Guide to the Draft Rules

## Plastic Pollution and Recycling Modernization Act, Rulemaking 2

### Background

The Oregon Department of Environmental Quality is conducting the second of two scheduled rulemakings to clarify and implement the Plastic Pollution and Recycling Modernization Act. The objective of the rulemaking is to propose rules related topics identified in statute that must be clarified or amended in rule. DEQ introduced rule concepts to the rulemaking advisory committee related to the following topics:

- Recycling Processor Obligations
- Covered Products
- Producer Responsibility Organization Obligations
- Producer Obligations
- Standards for Life Cycle Evaluations
- Local Government Obligations
- Enforcement

### Developing draft rules

In July 2023, DEQ began the second rulemaking in accordance with the public process requirements established in the Oregon Administrative Procedures Act. DEQ is developing administrative program rules to propose for the [Environmental Quality Commission](#)'s consideration. The EQC is a decision-making body that adopts proposed rules into Oregon administrative law.

DEQ anticipates the EQC will consider adopting the draft rules during its November 2024 meeting.

### This guide

The following table is intended to provide a user-friendly introduction to the proposed rule language, using plain language to facilitate understanding.

#### Translation or other formats

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800-452-4011 | TTY: 711 | [deqinfo@deq.oregon.gov](mailto:deqinfo@deq.oregon.gov)

Rule Number (OAR)	Rule Title	Explanation
<b>Division 12: Enforcement Procedure and Civil Penalties</b>		
OAR 340-012-0065, OAR 340-012-0098, OAR 340-090-0140	Solid Waste Management Classification of Violations, Classification of Violations and Determination of Base Penalty	Amendments were made to these rules found in Division 12 to align existing enforcement procedures and civil penalty rule language with the proposed new rule requirements.
<b>Division 90: Recycling and Waste Reduction</b>		
340-090-0010	Definitions	Amendments were made to these rules adding a definition for “commingled materials.”
340-090-0030	General Requirements	Amendments were made to these rules to clarify how local governments will ensure there is enough space for recycling collection at multifamily properties. This will include local governments providing an implementation plan to DEQ by Nov. 1, 2027. Implementation of the plan must begin no later than Jan. 1, 2030.
340-090-0035	Contamination Reduction Programming Elements	These proposed rules clarify how contamination reduction programming will be easy to understand for a diverse range of communities, accounting for preferred languages, backgrounds, ability and access to technology. The rules also specify actions a local government must take before enforcing consequences related to recycling contamination.
340-090-0630	Recycling Acceptance Lists	These proposed amendments remove “non-metalized gift wrap” and plastic storage items from the Uniform Statewide Collection List and add a provision that allows local governments to continue providing collection services for USCL materials that they were collecting prior to July 1, 2025, with approval from DEQ, and if the PRO has not yet met convenience standards specific to those materials and jurisdictions.
340-090-0640	Convenience Standards	These proposed amendments to the criteria for consideration of PRO proposals for alternative compliance to convenience standards enable DEQ to take a more holistic consideration of proposal impacts.
340-090-0670	Responsible End Markets	These proposed amendments about the producer responsibility organizations’ obligation to send materials collected for recovery to responsible end markets, including detailed disposition reporting requirements; relaxed yield standards for high-end office paper and cartons recycled into tissue; and edits that ensure alignment with proposed rule OAR 340-096-0310, which outlines the related requirements on commingled recycling processing facilities.

Rule Number (OAR)	Rule Title	Explanation
340-090-0690	Waste Prevention and Reuse Fee	<p>These rules establish and describe elements of the fee for the Material Impact Reduction and Reuse Program program. There are two parts to the proposed rules: the first part describes the new waste prevention and reuse fee, including the amount and other administrative details. The second part lists the activities the fee can fund.</p> <p>For the fee:</p> <ul style="list-style-type: none"> <li>• The amount of the fee will be the lower of: <ul style="list-style-type: none"> <li>○ \$15 million annually adjusted upwards based on the Consumer Price Index, or,</li> <li>○ 10 percent of the three-year average of all Producer Responsibility Organization(s) annual expenditures summed (excluding the payment of this fee).</li> </ul> </li> <li>• PRO(s) will be invoiced on or before Sept. 1 each year and will pay the fee to DEQ within 30 days of invoicing.</li> <li>• DEQ may reduce the fee each year if the full amount is not needed to administer or implement the program.</li> <li>• If there are multiple PRO(s), the fee will be divided based on their modified market share (please see OAR 340-090-0700(2) about how market share is calculated).</li> </ul>
340-090-0700	Market Share	<p>These amendments align when producers must report supply data (data year), the reporting year, and the year the data are used to generate market share calculations and producer fees (program year). This will ensure more accurate market share calculations in a multi-PRO scenario.</p>
340-090-0810	Local Government Compensation and Invoicing	<p>Amendments to these rules have clarified the amount of contamination reduction funding local governments shall receive and that smaller communities may receive funding for contamination reduction programming two years in advance. Amendments also clarify the eligible expenses for implementing contamination evaluation procedures.</p>
340-090-0820	Processor Commodity Risk Fee	<p>These rules establish a per-ton fee paid to commingled recycling processing facilities. Funding from the fee will cover eligible expenses related to owning and operating a recycling processing facility, including costs associated with facilities meeting new permit requirements. Eligible expenses the fee will pay for include:</p> <ul style="list-style-type: none"> <li>• Administrative and software costs</li> <li>• Living wages and supportive benefits to workers</li> <li>• Equipment and staffing upgrades needed to meet new performance standards</li> </ul>

Rule Number (OAR)	Rule Title	Explanation
		<ul style="list-style-type: none"> <li>• Other statutory requirements</li> </ul> <p>These rules also establish the formula that will be used to calculate the Processor Commodity Risk Fee on a monthly basis, which will be the difference between the statewide, average per-ton operating cost and the average commodity value. The difference between the two is the per-ton amount the PRO(s) will be required to pay to CRPFs for eligible tons processed.</p>
340-090-0830	Contamination Management Fee	<p>These rules establish a new per-ton fee, where the PRO(s) will compensate the commingled recycling processing facilities for the costs of removing and disposing of covered products that are contaminants.</p>
340-090-0840	Covered Products	<p>These proposed rules clarify the scope of the term “covered product” and lists specific product exemptions from this definition. Producers of the products that are excluded from this definition will not be required to pay fees to a producer responsibility organization.</p> <p>The draft rules propose clarifying that the following products are not “covered products”:</p> <ul style="list-style-type: none"> <li>• Durable packaging used for five years or more to contain products with a lifespan of three or more years</li> <li>• Packaging used for managing infection waste at healthcare facilities</li> <li>• Packaging for a subset of Class II and all Class III medical devices</li> <li>• Specific types of agricultural chemical packaging</li> <li>• Reusable and refillable pressurized cylinders: <ul style="list-style-type: none"> <li>○ Pure hydrogen or oxygen cylinders (all sizes)</li> <li>○ Acetylene cylinders, 10 cubic feet and larger; and</li> <li>○ Carbon dioxide cylinders, 5 lbs. and larger.</li> </ul> </li> </ul>
340-090-0850	2024 PRO Annual Reporting	<p>These proposed rules require a PRO to provide a complete accounting of costs incurred in 2024 for the activities described in ORS 459A.887(2)(e) to (i) to demonstrate that the fees they charge to producers will be enough to pay for the costs of the program.</p>
340-090-0860	Producer Definitions	<p>These proposed rules clarify the identity of the obligated producer for packaging that may reach a consumer empty (storage items, service packaging and consumer wraps), and for packaging of items produced through contract manufacturing. The proposed rules also require “associated producers” to lump their revenues and covered product volumes for the purposes of qualifying as a “large” or “small producer.”</p>

Rule Number (OAR)	Rule Title	Explanation
340-090-0870	Producer Pre-Registration	This draft rule proposes requiring all obligated producers of covered products to pre-register and provide supply data to the producer responsibility organization no later than March 31, 2025.
340-090-0900 to 0940	Standards for Life Cycle Evaluations	These proposed rules describe how large producers will fulfill their obligation to evaluate and disclose impacts for 1% of their covered products on a biennial basis. They also obligate producer responsibility organizations to offer two fee adjustments (bonuses) to their member producers for conducting similar evaluations and disclosures. The LCE rules specify the specific standards to be used by the producers for the evaluation and disclosure of the environmental impacts of their covered products throughout their life cycle.
<b>Division 93: Solid Waste: General Provisions</b>		
340-093-0030	Definitions	Amendments to these rules include the addition of definitions for the following terms, “capture rates”, “limited-sort facilities”, “recycling reload facility”, “commingled recycling reload facility” and “commingled recycling processing facility.”
340-093-0050	Permit Required	Amendments to these rules add “commingled recycling processing facilities” and “limited sort facilities” to the list of facilities that must comply with the requirements in OAR 340-096-0300.
340-093-0160	Place for Collecting Recyclable Materials	Amendments to these rules clarify the requirements for all solid waste permittees to provide a place for collection source separated recyclable material listed in OAR 340-090-0630(2).
<b>Division 96: Solid Waste Permits for Special Rules for Selected Solid Waste Disposal Sites, Waste Tire Storage Sites and Waste Tire Carriers</b>		
340-090-0300	Commingled Recycling Processing Facilities, and Limited Sort-Facilities	<p>These rules propose new requirements for a new commingled recycling processing facility and limited sort facility permit program and include requirements for:</p> <ul style="list-style-type: none"> <li>• Performance standards,</li> <li>• Capture rates, and</li> <li>• Outbound contamination rate</li> <li>• Responsible end markets, including disposition reporting of those markets</li> </ul> <p>These rules also propose a new start date for the permit program.</p>

Rule Number (OAR)	Rule Title	Explanation
340-096-0310	Responsible End Markets	These new rules propose standards for responsible end markets and disposition reporting requirements with respect to commingled recycling processing facilities' obligation to send materials collected for recycling to responsible end markets. As this obligation is shared with producer responsibility organizations, whose responsible end market obligation is addressed in rules at OAR 340-090-0670, these rules include cross-citations to rule 0670.
340-096-0820	Commingled Recycling Processing Facility Certification Program	The new rules propose requirements for a new certification program intended for CRPFs operating outside of Oregon that are handling Oregon-originated commingled recyclable material,
340-096-0840	Living Wage and Supportive Benefits	<p>These rules clarify the requirements for the implementation of providing living wages and supportive benefits for commingled recycling processing facility workers. In these rules definitions are proposed for:</p> <ul style="list-style-type: none"> <li>• “Workers at the facility”</li> <li>• “Living wages”</li> <li>• “Supportive benefits”</li> </ul> <p>These rules also clarify which data source(s) should be used when calculating the living wage rates.</p>
<b>Division 97: Solid Waste: Permit Fees</b>		
340-097-0110	Solid Waste Permit and Disposal Fees	<p>These proposed rules establish the fee structure for the permit application and annual compliance fee for commingled recycling processing facilities and limited sort facilities. DEQ proposes the following fee amounts:</p> <ul style="list-style-type: none"> <li>• Permit Application Fee: \$100-500 depending on anticipated tons received annually by the facility;</li> <li>• Permit Compliance Fee: \$50-\$1,000 depending on the tons accept annually by the facility</li> </ul>
340-097-0120	Permit/Registration Categories and Fee Schedule	

## Contact

Materials Management Program  
Roxann Nayar, Recycling Program Analyst  
[roxy.nayar@deq.oregon.gov](mailto:roxy.nayar@deq.oregon.gov)

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