



Oregon Department of Environmental Quality

Topic paper: Rule Concept on Assignment of Producer Obligation

RMA Rulemaking 3: Prepared for Rulemaking Advisory Committee discussion - Jan. 27, 2026

Summary of proposed amendments

DEQ proposes to add clarifying rules to OAR 340-090-0860 that will establish two procedural options for assignment of registration, reporting, and/or fee payment obligations from one producer to another, something enabled by the statute at ORS 459A.869(3)-(4). One pathway would consist of entering into a voluntary, three-party agreement with a Producer Responsibility Organization (the three parties involved would be the obligated producer, the voluntary producer, and the PRO) to formalize assignment of obligation. The other pathway would consist of registration of an assignment arrangement among two producers with DEQ.

Producers would have a choice among the two options but would not be able to assign producer obligation to another party without undertaking one or the other. This establishment of a procedural guardrail for assignment of producer obligation would ensure that DEQ would have adequate information for compliance and enforcement purposes, either directly or via the PRO, if needed.

Additionally, DEQ proposes to clarify within OAR 340-090-0860 that reported volumes assigned from an obligated producer to a voluntary producer shall be attributed to the obligated producer when applying the large producer definition at ORS 459A.863(8).

Background

At Rulemaking Advisory Committee meeting #1 on Nov. 13, 2025, DEQ presented a [topic paper](#) and requested committee feedback regarding whether or not clarifying rules are necessary for ORS 459A.869(3)-(4). Several committee members voiced support for clarifying rules during this meeting, with a goal of enabling visibility into such arrangements for DEQ compliance and enforcement purposes.

During the discussion on Nov. 13, 2025, committee members' opinions varied with respect to whether or not direct visibility into assignment arrangements is necessary for DEQ, or rather visibility for the PRO, who could then share information with DEQ. Requiring engagement of a PRO rather than DEQ in assignment arrangements would have benefits in terms of limiting state workload and the amount of producer data that would need to come to the state, but requiring all obligated-voluntary producer pairs to come into contract with a PRO could run contrary to the spirit of ORS 459A.869(4), which enables an obligated producer to avoid registering with a PRO if another producer registers on its behalf. While perhaps an assignment agreement with the PRO would not need to involve the obligated producer taking on obligations commensurate with the obligations of registration, it could still go beyond what was intended by the statute (i.e., a pathway whereby a producer can completely forgo engagement with a PRO).

For this reason, DEQ has decided to advance this rule concept providing producers with two procedural options for formalizing assignment of obligation.

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Additionally, in the interim between the November and January Rulemaking Advisory Committee meetings, a RAC member brought to DEQ's attention the concern that assignment of producer obligation could allow a producer to avoid large producer designation. As such, this concern has been addressed in this rule concept with an additional proposed amendment to OAR 340-090-0860.

Proposed amendments to OAR 340-090-0860

DEQ proposes to require in rule that, for all cases in which someone other than the obligated producer for covered products (i.e., the producer identified through application of the producer definitions at ORS 459A.866) voluntarily registers with a PRO, reports supply data, and/or pays fees on behalf of the obligated producer, the obligated producer and the voluntary producer must formalize their arrangement through one of the two following pathways in order to enable DEQ enforcement of producer obligations:

- a) A three-party contract with a producer responsibility organization that provides the PRO with all reasonably necessary information regarding the materials and volumes that the voluntary producer will be registering, reporting, and/or paying fees for; or
- b) A registration process with the department, whereby the obligated producer, in a manner and form determined by the department, provides all reasonably necessary information regarding the identity of the voluntary producer and the materials, volumes and type of obligation that the voluntary producer is assuming. The voluntary producer, when fulfilling the assigned obligation(s), informs CAA of the associated registration and its details, thereby acknowledging that it is fulfilling obligation on behalf of another producer and allowing CAA to then "close the loop" by informing DEQ that the registered obligation has been successfully fulfilled.

Note: with either pathway, if the voluntary producer fails to fulfill the assigned obligation(s), legal obligation remains with the obligated producer. This is clear from the statutory language at ORS 459A.869(3)-(4) and does not require reiteration in rule.

DEQ additionally proposes to clarify in rule that reported volumes assigned from an obligated producer to a voluntary producer shall be attributed to the obligated producer when applying the large producer definition at ORS 459A.863(8).

Outcomes of proposed amendments

- Operations: Greater clarity for producers seeking to apply ORS 459A.869(3)-(4) in their approaches to EPR compliance.
- Fiscal or economic impacts: Less potential for free ridership through use of ORS 459A.869(3)-(4).
- Equity impacts: Less free ridership generally makes for more equitable sharing of the producer fee burden among the producer collective.

Committee discussion questions

1. The registration pathway described in this rule concept entails the obligated producer registering with the department, the voluntary producer informing the PRO of this arrangement, and the PRO informing DEQ that the arrangement has been fulfilled – e.g. three steps to "close the loop." Is there a simpler alternative option that would uphold the spirit of ORS 459A.869(4), which allows an obligated producer to remain outside the fold of a PRO if another producer registers on its behalf?

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