

Topic paper: Amendments to Program Calendar Rule OAR 340-090-0720

RMA Rulemaking 3: Prepared for Rulemaking Advisory Committee discussion March 30, 2026

Summary of proposed amendments

DEQ proposes to amend rule OAR 340-090-0720(1) to extend the first program plan period beyond its current end point of Dec. 31, 2027, through to Feb. 21, 2028, which is three years from the date of initial approval of the program plan on Feb. 21, 2025. While CAA plans to submit its program plan for 2028-2032 as planned in early 2027 and aspires to receive its approval before the end of 2027, the guarantee of being the PRO for Oregon for seven weeks into 2028 is intended to enable CAA to negotiate and sign system expansion contracts with local governments and their service providers to pay for collection infrastructure assets that will arrive in early 2028 rather than in 2027. This will give the PRO flexibility to defer some costs planned for 2027 until early 2028, helping to keep the program budget for each year on a more even trajectory in 2026-2028.

Background

Statute directs the date for beginning implementation of the first set of approved Producer Responsibility Organization program plans. It also defines the duration of the first PRO program plan and subsequent, updated PRO program plans. The relevant citations and language are as follows:

- (Program start deadline) c. 681 §59 Oregon Laws 2021 (temporary statutory provision): “A producer responsibility organization shall first implement an approved producer responsibility program plan no later than July 1, 2025.”
- (Duration of first PRO program plan) ORS 459A.878(3): “A plan approved by the department under this section is valid for three years.”
- (Duration of updated PRO program plans) ORS 459A.878(3), amended version which takes effect on April 1, 2027: “A plan approved by the department under this section is valid for five years.”
- (Deadline for submission of updated PRO program plans) ORS 459A.878(4): “No less than 180 days before a plan approved under this section expires, a producer responsibility organization shall submit a plan to be approved under this section for an additional five years. A plan submitted for approval under this subsection must satisfy the requirements of ORS 459A.875 and describe any substantive changes from the previously approved plan. Until a plan submitted under this subsection is approved, the previously approved plan remains in effect.”

These citations leave room for interpretation as to when the three and five-year plan durations will conclude – three or five years from the date of plan approval, or at the end of three or five calendar years? This ambiguity was clarified through the rule OAR 340-090-0720, which stipulates that the initial program plan approved by DEQ is valid for the program years of 2025-2027 and that plans approved after April 1, 2027, are valid for five program years. Under this rule, the initial program plan is set to expire on Dec. 31, 2027, and program plans approved after April 1, 2027, will expire on December 31 of the last program year the plan is intended to cover. This rule was intended to allow for a more consistent and predictable timeline for updated program plan submissions and reviews, periodic needs assessments, and coordination among multiple PROs if needed.

Proposed draft redline rule language

Proposed changes are shown below with text removed in ~~strikeout~~ and new text as **bolded and underlined**.

DEQ proposes to amend OAR 340-090-0720(1) as follows:

(1) The first ~~three-year~~ producer responsibility program plan period will **run for three years from the date of plan approval**. ~~include the 2025, 2026, and 2027 calendar years. It will run from July 1, 2025 (or earlier in 2025, if stipulated in approved program plan) to December 31, 2027.~~

Note: DEQ is proposing no changes to OAR 340-090-0720(2):

(2) Subsequent producer responsibility program plan periods will run for five-year increments beginning on January 1 and ending on December 31 (the first set of updated plans will be valid from a start date of January 1, 2028, through to an end date of December 31, 2032).

Outcomes of proposed amendments

Operations: CAA may choose to defer some system expansion costs planned for 2027 into early 2028, being comfortable with writing early 2028 envisioned asset deliveries into contracts currently being negotiated with local governments and their service providers knowing that CAA will definitely be an approved PRO for Oregon in the first seven weeks of 2028.

Some local governments and service providers, particularly those in priority groups E and F, may receive system expansion assets that were expected in 2027 in early 2028 instead. Some of those local governments are dependent upon system expansion assets in order to achieve multitenant recycling requirements that go into effect on July 1, 2028, (OAR 340-090-0030(7)(b)). A separate rule (OAR 340-090-0630(4)(f)) already provides local governments an opportunity to request additional time to meet obligations to collect materials on the Uniform Statewide Collection List under the Opportunity to Recycle requirements if their ability to successfully collect the materials is dependent upon funding for system expansion assets, and those assets have been delayed. DEQ considers a four-plus month lag time (February 21 to June 30) between final delivery of assets and start-up requirements, coupled with the existing rule allowing for delays if justified, to be adequately protective of local governments and therefore is not proposing changes to either of those rules.

Fiscal or economic impacts: The amendment will help ensure that producer fees do not spike in 2027 due to the bulk of system expansion costs occurring in that year (when many assets are scheduled for delivery) and due to a peak in the processor commodity risk fee due to foreseen facility purchase of sorting assets in order to meet performance standards that kick in in 2028.

Equity impacts: None foreseen.

Committee discussion questions

1. Do you have any concerns with the proposed seven-week extension of the current plan period? Are there any unforeseen consequences?

Contact

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