

Topic Paper: Amendments to Convenience Standards

RMA Rulemaking 3: Prepared for Rulemaking Advisory Committee discussion – July 20, 2026

OAR 340-090-0640: Convenience Standards

Summary of proposed amendments

DEQ is proposing amendments to three parts of [OAR 340-090-0640](#), the convenience standards that help clarify the requirements for more equitable statewide access to recycling depots and drop off centers.

Background context

The proposed amendments would affect three areas of operations: DEQ's administrative review of requests from the PRO for alternative compliance, clarifications on how the PRO should evaluate a cost threshold in rule when contracting with existing depots and drop off sites, and requirements for access at depots and drop off sites operated by or at the direction of Tribal governments. Each amendment is designed to clarify areas of administrative rule where ambiguity remains, or the application of the rules has resulted in unintended outcomes.

Proposed amendment 1: Administrative review of alternative compliance requests from the PRO to DEQ

Currently, OAR 340-090-0640(6)(a) and 340-090-0640(6)(c) require a formal PRO Plan amendment for requests for alternative compliance made by the PRO under 340-090-0640(2). DEQ proposes to amend 340-090-0640(6)(a) and 340-090-0640(6)(c) to allow DEQ to review any proposal for alternative compliance as an agency decision, and not require a formal plan or plan amendment review process.

These proposed amendments allow for more efficient and timely review and decision-making by DEQ without changing the assessment criteria against which DEQ would make any decisions. The proposed amendments would also require that any DEQ-approved amendments are documented in writing and be incorporated by the PRO into the next regular PRO Plan update or amendment.

Proposed amendment 2: Clarification of cost assessment for PRO contracting with existing depots and drop off sites

Currently, OAR 340-090-0640(1)(b)(C) requires the PRO to contract with an existing depot unless the costs of doing so would exceed 110 percent of the costs for the PRO to establish its own, new, depot or drop off site to serve the same population. Current rule language does not provide details on how to calculate the 110 percent threshold, and DEQ is proposing to add clarifying language for how the PRO would consider cost comparisons for potential contracting.

The proposed amendments add clarity for the assessment without being prescriptive measures of what types of costs to include, in recognition that assessments may vary by region and circumstance.

Proposed amendment 3: Clarification of public access requirements for depots and drop off sites operated by, or at the direction of, Tribal governments

Currently, OAR 340-090-0640(1)(a) requires that any existing depot or drop off site must accept recyclable material from the general public in order to be eligible for contracting. DEQ is aware of three Tribal governments in Oregon that operate, or direct the operation of, depots or drop off sites in Oregon: the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of Grand Ronde, and the Confederated Tribes of Warm Springs. One Tribal government, Warm Springs, operates its drop off site on its Tribal property with access intended for members of its Tribal nation, and expressed concern to DEQ that opening access to the drop off site, in order to be eligible for the contract-funding from the PRO, could make the location vulnerable to illegal dumping and vandalism.

DEQ proposes to exempt depots and drop off sites operated by, or at the direction of, Tribal governments from the requirement of accepting materials “from the general public” as a condition of contract eligibility. The depots and drop off centers may still choose to be open to anyone, and those currently allowing access by the general public do not have to make any changes to remain eligible for contracting. Providing this exemption allows Tribally operated facilities to be managed by the policies of their sovereign nations while retaining eligibility as a potentially contracted depot or drop off center with the Producer Responsibility Organization.

These proposed changes correct an inadvertent restriction on the actions of Tribal governments, which is not consistent with the policies of the State of Oregon or DEQ. Not making these proposed changes could result in an unfair economic disadvantage for depots and drop off centers operated by or at the direction of a Tribal government by disallowing them to be contracted entities with the PRO.

Proposed draft redline rule language

DEQ is recommending three proposed rule changes to portions of OAR 340-090-0640, which follow below, to assist with implementation of ORS 459A.896. The proposed changes are identified with the use of **red bolded** text for new language, and ~~strikethrough~~ for deletions.

1. Alternative compliance requests: 340-090-0640(6)(a) and (c)

(6) Alternative compliance.

(a) A producer responsibility organization may propose an alternative to the requirements of section 2 of this rule in writing ~~in the producer responsibility organization program plan or an amendment to the plan~~ for approval by the department. If the alternative results in a city or county receiving fewer collection points than required by section 2 of this rule, the producer responsibility organization must demonstrate that it has consulted with the city or county regarding the proposed alternative approach. **The department must approve or reject all proposals for alternative compliance in writing, and a copy of the approval or rejection must be provided to the producer responsibility organization and retained by DEQ in compliance with the relevant State of Oregon records schedules. All approved proposals for alternative compliance must be incorporated by the producer responsibility organization into the subsequent producer responsibility organization program plan or amendment.**

...

(c) DEQ will assess an alternative compliance proposal ~~during program plan review~~ against the following criteria:

(A) Impact on the achievement of collection targets,

(B) Impacts on equitable access to and provision of recycling across regions and diverse populations;

(C) Demonstrated support of relevant local government(s) for the proposal; and

(D) Environmental outcomes.

2. Clarification for assessment of cost thresholds for contracting with existing depots and drop off centers: 340-090-0640(1)(b)(C)

(C) The annual cost to the producer responsibility organization to contract for collection and recycling of a material or set of materials with the recycling depot or drop off center does not exceed 110 percent of the cost the producer responsibility organization would otherwise pay to provide a collection point **in that same county** for that material or set of materials.

3. Clarification for requirement of general public access at depots and drop off centers operated by, or at the direction of, Tribal governments: OAR 340-090-0640(1)(a) and 340-090-0640(1)(a)(C)

(1) For purposes of ORS 495A.896(1) and this rule:

(a) An existing recycling depot or drop off center is any place located in Oregon that accepts any recyclable material from the general public, **except as noted in 340-090-0640(1)(a)(C)**, at the time the producer responsibility organization submits its most recent Program Plan or plan amendment, and which also meets at least one of the following five criteria:

...

(C) The recycling depot or drop off center is operated by or at the direction of a Tribal government. **A depot or drop off center operated by, or at the direction of, a Tribal government is exempt from the requirement to accept any recyclable material from the general public as described in OAR 340-090-0640(1)(a).**

Impacts of proposed amendments

Alignment with RMA framework

- Amendment 1: Positive - Improves efficiency of review and approvals process, which allows for more nimble changes as the state's recycling system matures.
- Amendment 2: Positive - Clarifies the best practice and approach for cost assessments, without creating inflexible limits for site-specific evaluations.
- Amendment 3: Positive - Corrects an error in application of State of Oregon and Materials Management Program policies related to the governance of Tribal nations.

Fiscal or economic impacts

- Amendment 1: Positive – Allows for quicker review and implementation of alternative compliance, which supports more efficient services in Oregon's communities.
- Amendment 2: Neutral/positive – Likely very few tangible impacts for fiscal or economic decision-making, does provide more certainty related to cost comparisons and decisions.
- Amendment 3: Positive – Ensures Tribal governments are not excluded from contracting opportunities for existing depots and drop off sites.

Equity impacts

- Amendment 1: Neutral – Not likely to result in reduced service to communities or populations with limited access to convenient recycling services.
- Amendment 2: Positive – Ensures that costs are assessed in site-specific ways, which supports existing businesses for contracting eligibility.
- Amendment 3: Positive – Supports Tribal sovereignty while ensuring access to contract eligibility and funding.

Committee discussion questions

1. Do the proposed amendments seem to meet their intended goals of clarification, efficiency and increased equity in Oregon's modernized recycling system?
2. Are there alternatives that DEQ should consider when drafting its proposed rule amendment language?

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