State of Oregon
DEQ Department of Environmental Quality

Recycling Modernization Act Updates 2026

Draft Rules – Edits Highlighted

Division 12
ENFORCEMENT PROCEDURE AND CIVIL PENALTIES

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 required producer responsibility organization coordination body if needed;

(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 classified;

(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 the commingled recycling program or as part of a trial or research 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.860 - 459A.975
Statutes/Other Implemented: ORS 459A.860 - 459A.975
History:
DEQ 20-2024, adopt filed 11/24/2024, effective 11/24/2024

Division 90
RECYCLING AND WASTE REDUCTION

340-090-0030
General Requirements

(1) The city, county, or metropolitan service district responsible for solid waste management must ensure that a place for collecting source separated recyclable materials identified in OAR 340-090-0630(4)(a) is located at each permitted disposal site or located at an alternative location in the jurisdiction that is more convenient to the population being served by the disposal site.

(2) Effective July 1, 2025 to January 1, 2027, a city, county or metropolitan service district, a local government's service provider or a commingled recycling reload facility may not deliver to a commingled recycling processing facility commingled recyclables that were collected pursuant to the uniform statewide collection list established under ORS 459A.914 unless:

(a) At the time the city, county or metropolitan service district, the local government's service provider or the comingled recycling reload facility delivered or contracted to deliver or transport materials to the commingled recycling facility:

(A) the commingled recycling facility held a valid permit issued under ORS 459A.955; or

(B) For a commingled recycling facility located outside of this state:

(i) The facility held a valid certificate issued under ORS 459A.956; or

(ii) The facility certified that it otherwise met the requirements of ORS 459A.955 or 459A.956, even though the facility did not hold a permit or certificate.

(b) Within six months after the DEQ completes a report under ORS 459A.932, the commingled recycling processing facility has taken steps to implement any recommendations of the report related to providing opportunities in the recycling industry for women and minority individuals as defined in ORS 200.005.

(3) Effective January 1, 2027, a city, county or metropolitan service district, a local government's service provider or a commingled recycling reload facility may not deliver to a commingled

recycling processing facility commingled recyclables that were collected pursuant to the uniform statewide collection list established under ORS 459A.914 unless:

(a) At the time the city, county or metropolitan service district, a local government's service provider or the comingled recycling reload facility delivered or contracted to deliver or transport materials to the commingled recycling facility:

(A) the commingled recycling facility held a valid permit issued under ORS 459A.955; or

(B) For a commingled recycling facility located outside of this state:

(i) The facility held a valid certificate issued under ORS 459A.956; or

(ii) The facility certified that it otherwise met the requirements of ORS 459A.955 or 459A.956, even though the facility did not hold a permit or certificate.

(b) The processor ensures the health, safety and wellness of workers at the facility regardless of whether the workers are employees, independent contractors or employees of another business.

(c) The processor provides workers at the facility with a living wage and supportive benefits, as defined by the rule by the Environmental Quality Commission.

(d) Within six months after the DEQ completes a report under ORS 459A.932, the commingled recycling processing facility has taken steps to implement the recommendations of the report related to providing opportunities in the recycling industry for women and minority individuals as defined in ORS 200.005.

(4) Effective January 1, 2026 a city, county, or metropolitan service district shall ensure that rollcarts, bins and containers purchased by its service providers are manufactured from at least 10 percent post-consumer recycled material and are certified by an independent verification standard, such as the Postconsumer Resin Certification Program established by the Association of Plastics Recyclers.

(5) Effective July 1, 2025, except as provided by ORS 459A.914(6) or OAR 340-090-0630(7), a material may not be collected as part of a commingled recycling program unless the material is identified for collection as part of a commingled recycling program on the uniform statewide collection list.

(6) For purposes of sections (2) through (5) of this rule the terms "commingled recycling," "commingled recycling processing facility," "local government's service provider," and "recycling reload facility" have the meaning provided by ORS 459A.863.

(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) To provide the opportunity to recycle to tenants as collection service customers, pursuant to ORS 459A.005(3)(b), local governments will adopt an ordinance or other enforceable mechanism to be implemented by Jan. 1, 2030, that:

(A) Requires property managers provide recycling service to tenants if they provide garbage service and provide recycling information to tenants upon move-in and twice per year;

(B) Requires service providers to work with managers of properties where they provide garbage service to set up and provide recycling service for multifamily and commercial tenants; and

(C) Allows owners of properties with multifamily and commercial tenants to apply for and receive an exemption from DEQ for insurmountable challenges.

(c)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, submit an implementation plan to DEQ by July 1, 2029 in a manner and form prescribed by DEQ, report on activities undertaken to execute the implementation plan in the periodic report submitted according to the requirements of OAR 340-090-0100, and initiate plan implementation no later than Jan. 1, 2030. The implementation plan shall describe how the city, county, or metropolitan service district 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 where practicable or provide alternative recycling opportunities approved by DEQ.

(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.

(d)To the extent that funding is provided under ORS 459A.890(4), establish and implement, or cause to be established and implemented, a program to reduce contamination that:

(A) Includes one or more local recycling contamination reduction goals that are consistent with the statewide goals established by the DEQ pursuant to ORS 495A.929(1)(a).

(B) Causes collected source separated recyclables to undergo periodic evaluation of collected material quality and contamination, in accordance with forms and procedures established by the Department of Environmental Quality under ORS 459A.959.

(C) Includes:

(i) At least one of each of the three types of contamination reduction program elements contained on the list established by the DEQ pursuant to ORS 459A.929(1)(c), or

(ii) Uses materials or methods that are at least as effective as materials or methods approved by DEQ pursuant to ORS 459A.929(1)(c).

(D) Includes, at least once every five years, a process for reviewing, and revising as appropriate, the local goals and local elements established under this subsection.

(8) The city or county responsible for solid waste management must carry out a public education and promotion program that meets the following minimum requirements:

(a) An initial written or more effective notice or combination of both that is reasonably designed to reach each residential and commercial generator of recyclable materials, and that clearly explains why people should recycle, the recycling opportunities available to the recipient, the materials that can be recycled and the proper preparation of those materials for recycling. The notice must include the following specific information:

(A) Reasons why people should recycle; and

(B) Name, address and telephone number of the person providing on-route collection where applicable; and

(C) Listing of depots for recyclable materials at all disposal sites serving the area and any alternative DEQ-approved more convenient locations, including the materials accepted and hours of operation; or

(D) Instead of paragraphs (B) and (C) of this subsection a telephone number and a website address to find information about depot locations and collection service as appropriate.

(b) Existing residential and commercial collection service customers must be provided information, at least semi-annually, through a written or more effective notice or combination of both, listing the materials collected, the schedule for collection, proper method of preparing materials for collection and an explanation of the reasons why source separation of materials for recycling is necessary;

(c) Written information to be distributed to disposal site users at all disposal sites or, alternatively, more convenient locations with attendants and where it is otherwise practical. The written information must include the following:

(A) Reasons why people should recycle; and

(B) List of materials that can be recycled; and

(C) Instruction for the proper preparation of recyclable materials.

(d) At sites without attendants, a sign indicating availability of recycling at the site or at the more convenient location must be prominently displayed that indicates materials accepted and hours of operation;

(e) Identify and establish a procedure for resident involvement for the development and implementation of an education and promotion program;

(f) Notification and education materials provided to local media and other groups that maintain regular contact with commercial and residential generators and the public in general, including local newspapers, trade publications, local television and radio stations, community groups, and neighborhood associations;

(g) A person identified as the education and promotion representative for the appropriate jurisdiction to be the official contact to work with the other affected persons in matters relating to education and promotion for recycling.

(h) A local government that provides the opportunity to recycle or the local government's service provider shall utilize and distribute educational resources developed under ORS 459A.893(1). A local government or the local government's service provider may incorporate the educational resources developed under this section into an existing education program developed to satisfy the requirements of ORS 459A.007 and 459A.008.

Statutory/Other Authority: ORS 459.045, 459A.100 - 459A.120 & 468.020
Statutes/Other Implemented: ORS 459A.005, 459A.010, 459A.007, 459A.896, 459A.905, 459A.908, 459A.911, 459A.914 & 459A.929
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DEQ 22-2024, minor correction filed 12/05/2024, effective 12/05/2024
DEQ 20-2024, amend filed 11/24/2024, effective 11/24/2024
DEQ 22-2023, minor correction filed 11/21/2023, effective 11/21/2023
DEQ 18-2023, amend filed 11/17/2023, effective 11/17/2023
DEQ 10-2017, minor correction filed 10/27/2017, effective 10/27/2017
DEQ 3-2017, f. & cert. ef. 1-19-17
DEQ 10-1994, f. & cert. ef. 5-4-94
DEQ 31-1992, f. & cert. ef. 12-18-92, Renumbered from 340-060-0020 & 340-060-0040
DEQ 26-1984, f. & cert. ef. 12-26-84

340-090-0040
Local Government Recycling Program Elements

(1) In addition to the minimum requirements in OAR 340-090-0030 and 340-090-0042, each city with a population of 4,000 or more and any county responsible for the area between the city limits and the urban growth boundary of that city, or the area outside the city limits but within a metropolitan service district, must implement recycling program elements from section (3) of this rule based on the following requirements:

(a) For cities within a metropolitan service district:

(A) The three recycling program elements set forth under subsections (3)(a), (b) and (c) of this rule and at least four additional elements set forth under section (3) of this rule;

(B) At least eight recycling program elements set forth under section (3) of this rule; or

(C) An alternative program approved by DEQ that meets the requirements of OAR 340-090-0080.

(b) For cities with a population of at least 4,000 but not more than 10,000 that are located 120 miles or less from the City of Portland:

(A) At least four recycling program elements set forth under section (3) of this rule; or

(B) An alternative program approved by DEQ that meets the requirements of OAR 340-090-0080.

(c) For cities with a population of at least 4,000 but not more than 10,000 that are more than 120 miles from the City of Portland:

(A) At least three recycling program elements set forth under section (3) of this rule; or

(B) An alternative program approved by DEQ that meets the requirements of OAR 340-090-0080.

(d) For cities with a population of more than 10,000 but not more than 50,000 that are located 150 miles or less from the City of Portland:

(A) The three recycling program elements set forth under subsections (3)(a), (b) and (c) of this rule and at least two additional elements set forth under section (3) of this rule;

(B) At least six recycling program elements set forth under section (3) of this rule; or

(C) An alternative program approved by DEQ that meets the requirements of OAR 340-090-0080.

(e) For cities with a population of more than 10,000 that are located more than 150 miles from the City of Portland:

(A) The three recycling program elements set forth under subsections (3)(a), (b) and (c) of this rule and at least one additional element set forth under section (3) of this rule;

(B) At least five recycling program elements set forth under section (3) of this rule; or

(C) An alternative program approved by DEQ that meets the requirements of OAR 340-090-0080.

(f) For cities with a population of more than 50,000 that are located 150 miles or less from the City of Portland:

(A) The three recycling program elements set forth under subsections (3)(a), (b) and (c) of this rule and at least three additional recycling program elements set forth under section (3) of this rule;

(B) At least seven recycling program elements set forth under section (3) of this rule; or

(C) An alternative program approved by DEQ that meets the requirements of OAR 340-090-0080.

(g) A local government that is not subject to ORS 459.007(6) or (7) or OAR 340-090-0042 may substitute for one recycling program element set forth under section (3) of this rule:

(A) The waste prevention and reuse program element set forth under OAR 340-090-0042(2); and

(B) At least two additional waste prevention and reuse program elements set forth under OAR 340-090-0042.

(2) For determining a city's distance in miles from the City of Portland under section (1) of this rule, DEQ must use the current mileage table or comparable current mileage statistics from the Oregon Department of Transportation.

(3) Program elements:

(a) Deliver to each residential collection service customer at least one durable recycling container. For purposes of this program element, a durable container must be a rigid box or bucket with a volume of at least 12 gallons made of material that holds up under all weather conditions for at least five years and that the resident and the collector can easily handle;

(b) Provide on-route collection at least once each week of source separated recyclable materials designated by OAR 340-090-0630(4)(b) to residential collection service customers provided on the same day that solid waste is collected from each customer;

(c) Provide a recycling education and promotion program that is expanded from the minimum requirements described in OAR 340-090-0030(8), and supports the management of solid waste in the following priority order: first preventing the generation of waste, then reusing materials, then recycling materials, then composting materials, then recovering energy, and finally safely disposing of solid waste that cannot be prevented, reused, recycled, composted or used for energy recovery.

(A) Each local government's expanded program must satisfy the applicable requirements of ORS 459A.008 and OAR 340-090-0041 and:

(i) Must inform all solid waste generators of how to prevent waste and how to reuse, recycle and compost material;

(ii) Must inform all solid waste generators of the manner and benefits of preventing waste and how to reuse, recycle, and compost materials;

(iii) Must promote the use of recycling services;

(iv) Must determine the levels of contamination of materials set out for collection and take action to reduce contamination in collected recyclables; and

(v) Must target educational and promotional materials provided to commercial customers to meet the needs of various types of businesses and should include reasons to recycle, including economic benefits, common barriers to recycling and solutions, additional resources for commercial generators of solid waste, and other information designed to assist and encourage recycling efforts. These materials must encourage each commercial generator of solid waste to strive to achieve 55 percent recovery from its solid waste stream by the year 2025.

(B) The expanded program must be provided in one of the two following ways:

(i) A "Specified Action" program, which must include at a minimum the following elements:

(I) All new residential and commercial collection service customers must each receive a packet of educational materials that contain information listing the materials collected, the schedule for collection, proper method of preparing materials for collection and an explanation of the reasons why customers should source separate materials for recycling;

(II) Existing residential and commercial collection service customers must be provided information identified in OAR 340-090-0040(3)(c)(B)(i)(I) at least four times a calendar year through a written notice or effective alternative to reach various solid waste generators, or combination of both;

(III) At least annually information regarding the benefits of recycling and the type and amount of materials recycled during the past year must be provided directly to the collection service customer in written form and must include additional information including the procedure for preparing materials for collection;

(IV) Targeting of at least one community or media event per year to promote waste prevention, reuse, recycling and composting, although not every media event needs to promote all of those activities;

(V) Utilizing a variety of materials and media formats to disseminate the information in the expanded program in order to reach the maximum number of collection service customers and residential and commercial generators of solid waste; and

(VI) Development and implementation of a contamination reduction education plan that satisfies the requirements of OAR 340-090-0041.

(ii) Development and implementation of an "Expanded Education and Promotion Plan." The Plan must:

(I) Include actions to effectively reach solid waste generators and all new and existing collection service customers;

(II) Include such actions as necessary to fulfill the intent of this subsection;

(III) Include a timetable for implementation, and the local government must implement that timetable;

(IV) Be submitted to DEQ by February 28 of the first year that the Plan is to be in effect or within 30 days of the beginning of the local government's fiscal year in which the Plan is first put into effect.

(d) Establish and implement a recycling collection program through local ordinance, contract or any other means enforceable by the appropriate city or county for each multi-family dwelling complex having five or more units. The collection program must meet the following requirements:

(A) Collect recyclable materials identified by OAR 340-090-0630(4)(b);

(B) Provide educational and promotional information directed toward the residents of multi-family dwelling units periodically as necessary to be effective in reaching new residents and reminding existing residents of the opportunity to recycle including the types of materials to be recycled and the method for properly preparing those materials.

(e) Establish and implement an effective residential yard debris program to collect and compost residential yard debris. The program must include the following elements:

(A) Promotion of home composting of yard debris through written material or some other effective media form that is directed at the residential generator of yard debris; and either

(B) At least monthly on-route collection of yard debris from residences for production of compost or other marketable products; or

(C) A system of residential yard debris collection depots, for producing compost or other marketable products, located such that there is at least one conveniently located depot, open to the public at least once a week, for every 25,000 population.

(f) Taking into account material generation rates, establish and implement regular, on-site collection of source separated recyclable materials designated by OAR 340-090-0630(4)(b) from commercial generators, taking into consideration how the generator could achieve 55 percent recovery from its solid waste stream by the year 2025. This program element does not apply to manufacturing, business or processing activities in residential dwellings or to the generation of industrial solid waste. At a minimum the commercial recycling program:

(A) Must be provided to commercial entities that employ 10 or more persons and occupy 1,000 square feet or more in a single location;

(B) Must include an education and promotion program that:

(i) Uses materials and messages specifically designed for commercial generators of solid waste; and

(ii) Informs all commercial generators of solid waste of the benefits of recycling, the recycling opportunities available to them and how to recycle; and

(iii) If the local government is providing the expanded education and promotion program element, includes any additional requirements needed to meet OAR 340-090-0040(3)(c); and

(iv) Includes information on the benefits of waste prevention to commercial generators.

(C) Must be conducted to effectively promote the commercial recycling program to commercial generators of solid waste;

(D) Must encourage each commercial generator of solid waste to strive to achieve 55 percent recovery from its solid waste stream by the year 2025;

(E) Should provide other elements including but not limited to:

(i) Provision of waste assessments to businesses;

(ii) Provision of recycling receptacles to businesses at no or low cost;

(iii) Waste prevention and recycling recognition programs. Local governments are encouraged to involve local business organizations in publicly recognizing outstanding waste prevention and recycling efforts by commercial generators of solid waste. The recognition may include awards designed to provide additional incentives to increase waste prevention and recycling efforts.

(g) Establish depots for recycling collection of all materials identified in OAR 340-090-0630(4)(a), and where feasible, additional materials, except that glass, used oil and scrap metal as described in OAR 340-090-0630(2)(n), (o) and (p) need not be collected at the depot if another location within the local government unit will accept such materials for recycling. This program must provide at least one (1) recycling depot in addition to the depot(s), if any, required by OAR 340-090-0030(1). For any city with a population of 50,000 or more, the minimum number of additional depots must be equal to the city's population, divided by 25,000, and rounded down to the nearest whole number. The expanded depot program must include promotion or education that maximizes the use of the expanded depot program. The depots must operate as follows:

(A) Have regular and convenient hours for residential generators of solid waste; and

(B) Be open on at least one weekend day each week; and

(C) Be established in location(s) that are convenient for residential generators of solid waste to use.

(h) Establish collection rates for residential solid waste from single-family residences and single residential units, in complexes of less than five units that encourage waste prevention, reuse and recycling. The rates must, at a minimum, include the following elements:

(A) At least one rate for a container that is 21 gallons or less in size and costs less than larger containers;

(B) Rates must be based on the average weight, as determined in paragraph (E) of this subsection, of solid waste disposed per container for various sizes of containers;

(C) Rates, as calculated on a per pound disposed basis, may not decrease per pound with the increasing size of the container or the number of containers;

(D) Rates per container service must be established such that each additional container beyond the first container for each residential unit must have a fee charged that is at least the same fee and no less than the first container; and

(E) Rates, calculated on a per pound disposed basis, the city or county develops through their own per pound average weights for various container sizes by sampling and calculating the average weights for a cross section of containers within their residential service area.

(i) An on-going system to collect food waste and, optionally, other compostable waste, from commercial and institutional entities that generate large amounts of such wastes, and compost it at facilities in compliance with DEQ composting facility rules and local government regulations:

(A) Before diverting edible (unwanted) foods to be composted, a local government should consider how to encourage making them available:

(i) Through food rescue;

(ii) Or if charity channels are not available, to farmers for animal feed.

(B) A commercial composting program must include the following elements:

(i) On-going promotion of the commercial compost program through written material or other effective formats directed to targeted commercial generators within the local government unit, such as grocery stores, restaurants, wholesale flower warehouses, hotels, businesses and institutions with food service;

(ii) To avoid problems relating to human health and the environment, periodic collection of food wastes and, optionally, other compostable wastes, is required from commercial generators on an appropriate schedule.

(C) Any composting facility to which collected compostable waste is taken must comply with DEQ composting facility rules;

(D) On-site commercial composting should be considered if the location is appropriate, space is available and the entity complies with DEQ composting facility rules and local government regulations.

(j) A commercial recycling program that requires commercial generators of solid waste that generate large amounts of recyclable materials to source separate recyclable materials.

(A) For subsection (3)(j) of this rule, “large amount commercial generator” means a commercial generator of solid waste that has a service level of four or more cubic yards of solid waste per week at a single site.

(B) A local government must require participation in its commercial recycling program by all large amount commercial generators except for generators exempted under paragraph (3)(j)(F) of this rule.

(C) The local government's commercial recycling program must include requirements for large amount commercial generators to:

(i) Source-separate recyclable materials for reuse or recycling;

(ii) Self-haul or arrange for collection service of the source separated recyclable materials;

(iii) Provide recycling containers for internal areas where recyclable materials may be collected, stored, or both; and

(iv) Correctly label all interior and exterior containers and post signs where recyclable materials may be collected, stored, or both that identify the materials that the large amount commercial generator must source-separate for reuse or recycling and that provide recycling instructions.

(D) The local government must provide education and promotion that meets at least the minimum requirements described in OAR 340-090-0030(8) for all large amount commercial generators.

(E) To ensure compliance with the requirements in this subsection, the local government must establish a method for identification and monitoring of large amount commercial generators.

(i) If a large amount commercial generator is not in compliance with the requirements of this subsection, then the local government must, at a minimum, notify that large amount commercial generator that it is out of compliance.

(ii) For a noncomplying large amount commercial generator, the local government may also consider a penalty or fine structure that incorporates warning notices, civil injunctions, financial penalties, or criminal prosecutions.

(F) The local government may allow for limited exemptions from the requirements of this subsection for reasons that the local government deems appropriate, such as zoning requirements, lack of sufficient space to provide additional recycling containers, or non-generation of recyclable materials.

(G) The local government may consider certification requirements for self-haulers of source-separated recyclable materials. Those certification requirements may include, but are not limited to, requiring large amount commercial generators to maintain written records demonstrating that all self-hauling activities have been completed in compliance with the requirements of this subsection (3)(j).

(k) A program for monthly or more frequent on-route collection and composting for food waste and, optionally, other compostable waste from residential collection service customers.

(A) The local government must provide education or promotion that meets at least the minimum requirements described in OAR 340-090-0030(8) for all residential collection service customers.

(B) In addition to the requirements of subsection (3)(k)(A) of this rule, the local government's education or promotion to all residential collection service customers must include:

(i) Types of food waste collected;

(ii) The schedule for collection;

(iii) Methods of preparing food waste for collection;

(iv) Explanations of why separating food waste for recovery is necessary; and

(v) Explanations of how to reduce contamination of the food waste recovery stream set out for collection.

(l) A recovery program for construction and demolition debris.

(A) As used in subsection (3)(l) of this rule, “construction and demolition debris” means waste resulting from the construction, renovation, repair, or demolition of buildings or other structures that contain recyclable material. “Construction and demolition debris” does not include putrescible wastes, hazardous waste, or asbestos.

(B) The recovery program for construction and demolition debris must:

(i) Require that construction and demolition debris be source separated at the site of generation or be sent to a material recovery facility for processing and recovery; and

(ii) Include an education or promotion program for developers, contractors, and residential owners that provides strategies:

(I) To reduce waste during preconstruction planning and in building construction, renovation and demolition phases; and

(II) To direct waste to reuse and material recovery facilities.

(C) Generators subject to this program include any person who:

(i) Generates and self-hauls a minimum of six cubic yards of construction and demolition debris at any time; or

(ii) Generates and arranges for collection service of a minimum of ten cubic yards of construction and demolition debris at any time.

(D) The local government must provide education or promotion that meets at least the minimum requirements described in OAR 340-090-0030(8) for all generators of construction and demolition debris that are subject to the recovery program for that debris.

(m) A food waste collection program requiring nonresidential generators that generate large amounts of food waste to source-separate the food waste for recovery.

(A) For subsection (3)(m) of this rule:

(i) “Nonresidential generator” means a commercial generator or other generator but not a residential or multi-family generator; and

(ii) “Large amount nonresidential generator” means a nonresidential generator that disposes of more than fifty tons of food waste annually.

(B) The local government must require participation in its food waste collection program by all large amount nonresidential generators except for generators exempted under paragraph (3)(m)(F) of this rule.

(C) The local government’s food waste collection program must include requirements for large amount nonresidential generators to:

(i) Cover, at a minimum, food waste that is not packaged and for which final disposal by the large amount nonresidential generator is controlled by the nonresidential generator’s employees or agents;

(ii) Source-separate food waste for donation or food waste collection;

(iii) Self-haul or arrange for collection service of the food waste;

(iv) Provide containers for internal areas where food waste may be collected, stored, or both; and

(v) Correctly label all interior and exterior containers and post signs and instructions where food waste is collected, stored, or both, that identifies the types of food waste the large amount nonresidential generator must source-separate for donation or food waste collection.

(D) The local government must provide education or promotion that meets at least the minimum requirements described in OAR 340-090-0030(8) for all large amount nonresidential generators.

(E) To ensure compliance with the requirements in this subsection, the local government must establish a method for identification and monitoring of large amount nonresidential generators.

(i) If a large amount nonresidential generator is not in compliance with the requirements of this subsection, then the local government must, at a minimum, notify that large amount nonresidential generator that it is out of compliance.

(ii) For a noncomplying large amount nonresidential generator, a local government may also consider a penalty or fine structure that incorporates warning notices, civil injunctions, financial penalties, or criminal prosecutions.

(F) The local government may allow for limited exemptions from the requirements of this subsection for reasons that the local government deems appropriate, such as zoning requirements or lack of sufficient space to provide additional food waste containers.

(G) The local government may consider certification requirements for self-haulers of food waste. Those certification requirements may include, but are not limited to, requiring large amount nonresidential generators of food waste to maintain written records demonstrating that all self-

hauling activities have been completed in compliance with the requirements of this subsection (3)(m).

(4) In addition to the requirements in sections (1) and (2) of this rule, each city with a population of 4,000 or more and any county responsible for the area within a metropolitan service district or the area between the city limits and the urban growth boundary of that city in any of the following wastesheds must provide the opportunity to recycle rigid plastic containers if the conditions set forth in section (5) of this rule are met:

(a) Clackamas, Multnomah and Washington Counties, in aggregate, as a single wasteshed;

(b) Benton wasteshed;

(c) Clatsop wasteshed;

(d) Columbia wasteshed;

(e) Deschutes wasteshed;

(f) Douglas wasteshed;

(g) Hood River wasteshed;

(h) Jackson wasteshed;

(i) Josephine wasteshed;

(j) Lane wasteshed;

(k) Linn wasteshed;

(l) Marion wasteshed;

(m) Polk wasteshed;

(n) Wasco wasteshed; and

(o) Yamhill wasteshed.

(5) The opportunity to recycle rigid plastic containers is required within a wasteshed when a stable market price for rigid plastic containers, that equals or exceeds 75 percent of the necessary and reasonable collection costs for those containers, exists for such wasteshed.

Statutory/Other Authority: ORS 459.045, 459A.025, 459A.100 - 459A.120 & 468.020
Statutes/Other Implemented: ORS 459A.005, 459A.007, 459A.008, 459A.010 & 459A.665
History:
DEQ 18-2023, amend filed 11/17/2023, effective 11/17/2023
DEQ 76-2018, minor correction filed 04/09/2018, effective 04/09/2018
DEQ 3-2017, f. & cert. ef. 1-19-17

DEQ 8-2005, f. & cert. ef. 7-14-05
DEQ 27-1998, f. & cert. ef. 11-13-98
DEQ 9-1996, f. & cert. ef. 7-10-96
DEQ 10-1994, f. & cert. ef. 5-4-94
DEQ 31-1992, f. & cert. ef. 12-18-92 (and corrected 1-5-93)

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.

(b) “Antimicrobial pesticide” means a pesticide product that satisfies all of the conditions in 40 CFR 165.23(c)(1) – (4).

(c) “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.

(d) “Bottle” means a rigid container with or without a handle and with a neck or mouth smaller than the base.

(e) “Bowl” means a rigid container that holds a serving of food for consumption directly from the container. Bowls are a type of food serviceware that are sold empty and filled by the consumer or a food service establishment.

(f) “Cap” means a rigid closure for tubs or bottles that has a fastening feature that involves threads. “Cap” does not include a spray mechanism, such as a trigger, spray nozzle, spring and drip tube, nor does it include a rigid closure that is affixed to a spray mechanism.

(g) “Corrosive” means having the characteristics of corrosivity, as defined in 16 CFR 1500.3.

(h) “Drinking cup” means a rigid container that holds a serving of liquid for consumption directly from the container. Drinking cups are a type of food serviceware that are sold empty and filled by the consumer or a food service establishment.

(i) “Flammable” means having a flashpoint at or below 199.4 degrees Fahrenheit (93 degrees Celsius).

(j) “HDPE” means high density polyethylene.

(k) “Lid” means a rigid closure for tubs that has a fastening feature other than threads.

(l) “Non-metallized gift wrap” means paper gift wrap devoid of non paper additives like metal flakes, glitter, metalized mylar or any similar material.

(m) “PE” means polyethylene and includes HDPE, low density polyethylene and linear low density polyethylene.

(n) “PET” means polyethylene terephthalate.

(o) “PP” means polypropylene.

(p) “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.

(q) “Reactive” means having the characteristics of reactivity, as defined in 40 CFR 261.23.

(r) “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.

(s) “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. Scrap metal excludes aerosol cans and pressurized cylinders unless they have been fully depressurized.

(t) “Storage container” means a durable receptacle that is enclosed with a removable lid, is normally purchased empty by the user, and is designed to protect, hold, organize or transport food, goods or other items that are placed into the storage container by the user of the storage container, as opposed to its producer. “Storage container” does not include bags or items that are non-lidded or which have sides of a net- or mesh-like structure that might be used for transient or incidental storage, such as laundry baskets, crates and shopping baskets.

(u) “Toxic” means having the characteristics of toxicity, as defined in 16 CFR 1500.3

(v) “Tub” means a rigid container that has an opening or mouth similar in size to its base. “Tub” does not include a drinking cup, a bowl, a tray, or a clamshell or similar container with a lid that is affixed to the base using a hinge or similar mechanism.

(w) “Tray” means a shallow rigid packaging container with a depth less than 2 inches.

(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 any polycoated paperboard packaging that is 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 shredded paper, 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 or other products intended to go into an engine or a tank relating to operating an engine or motor, excepting diesel exhaust fluid and windshield washer fluid; paints or similar coatings; pesticides or herbicides other than antimicrobial pesticides; or other hazardous materials that are flammable, corrosive, reactive, or 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, transparent blue and transparent green only);

(ii) HDPE (#2); and

(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, 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, except as provided in subsection (4)(c) of this rule.

(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 as provided in ORS 459A.896(1):

(a) Steel and aluminum aerosol cans, effective January 1, 2028;

(b) Aluminum foil and products made of pressed aluminum foil;

(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 if they are made of polyethylene and contribute less than 10 percent of the total package, by weight, or no more than 20 percent for flexible PE seals or closures.

(e) Plastic buckets and pails 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 or other products intended to go into an engine or a tank relating to operating an engine or motor, excepting diesel exhaust fluid and windshield washer fluid; paints or similar coatings; pesticides or herbicides other than antimicrobial pesticides; or other hazardous materials that are flammable, corrosive, reactive, or toxic;

(f) Glass bottles and jars, but effective July 1, 2027, only in those wastesheds identified in subsection 4(c) of this rule, or otherwise as necessary to meet the requirements of OAR 340-090-0640(2)(f);

(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, effective January 1, 2030.

(4) The materials listed in Section 2 of this rule must be collected as follows:

(a) The materials listed in subsections (a) through (p) 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) Effective July 1 2027, the materials listed in subsection (p) must be collected at depots as part of the opportunity to recycle pursuant to ORS 459A.005 and 459A.007, but not in the following wastesheds, where instead collection and recycling is the obligation of a Producer Responsibility Organization, as described in subsection (3)(f) of this rule:

(i) Curry;

(ii) Gilliam;

(iii) Grant;

(iv) Harney;

(v) Lake;

(vi) Malheur;

(vii) Morrow;

(viii) Sherman;

(ix) Wallowa; and

(x) Wheeler.

(d) The materials listed in OAR 340-090-0630(2)(p) must also 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; 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).

(5) Materials on either the Local Government Recycling Acceptance List pursuant to Section (2) of this rule or the Producer Responsibility Organization Recycling Acceptance List pursuant to Section (3) of this rule, including two or more materials listed in Section (2), two or more materials listed in Section (3), as well as materials from both Sections (2) and (3), may be collected mixed together in the same container at a recycling depot provided that the following conditions are met:

(a) The combined materials do not need to be separated into individual materials in order to be sent to a responsible end market; or

(b) Separation of the combined materials occurs at a location other than a commingled recycling processing facility.

(6) 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).

(7) If, prior to July 1, 2025, a local government is collecting materials listed in Section (3) of this rule as part of a commingled recycling program, the local government may submit a request to continue to collect such materials in commingled recycling until such time as the producer responsibility organization has met the convenience standard pursuant to OAR 340-090-0640(2) and OAR 340-090-0640(6). Neighboring local governments may submit a joint request that includes approval from all jurisdictions. The submission must provide any information requested by DEQ and describe to the satisfaction of DEQ the local government's process and timeline for complying with the obligation to only include materials on the Uniform Statewide Collection List in its commingled recycling program. DEQ may request conditions of approval to address concerns related to specific materials. For example, to approve a request to continue to collect aerosol containers, DEQ may require local governments to conduct focused customer education to message the importance of ensuring aerosol containers are empty.

[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.]

Statutory/Other Authority: ORS 459A.975 & 468.020
Statutes/Other Implemented: ORS 459A.860 - 459A.975
History:
DEQ 20-2024, amend filed 11/24/2024, effective 11/24/2024
DEQ 25-2023, minor correction filed 12/05/2023, effective 12/05/2023
DEQ 18-2023, adopt filed 11/17/2023, effective 11/17/2023

340-090-0640
Convenience Standards

(1) For purposes of ORS 495A.896(1) and this rule, except as provided in section (6) of 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:

(A) The recycling depot or drop off center is used by a local government to satisfy the requirement in ORS 459A.005(1)(a)(A) to provide a place for collecting source separated recyclable material, including the materials on the uniform statewide collection list established under ORS 459A.914 designated for collection at a recycling depot, located either at a disposal site or at another location more convenient to the population being served.

(B) The recycling depot or drop off center is used by a local government to satisfy the optional opportunity to recycle program element described in ORS 459A.007(1)(g).

(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).

(D) The recycling depot or drop off center is located at a site that operates under a valid solid waste permit issued by the DEQ.

(E) The recycling depot or drop off center is operated by or at the direction of a local government or a local government's service provider, as defined in ORS 459A.863(12).

(b) For purpose of satisfying obligations under ORS 459A.896, it is possible for a producer responsibility organization to contract with an existing recycling depot or drop off center to provide for collection of a covered product or products if the recycling depot or drop off center meets all the following conditions:

(A) The operator of the existing recycling depot or drop off center is willing to contract to provide collection service on behalf of the producer responsibility organization.

(B) The operator of the existing recycling depot or drop off center commits to meet and is meeting all performance standards and other requirements on the producer responsibility organization and to provide collection service on behalf of the producer responsibility organization.

(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 within that same urban growth boundary, if applicable, or same county for that material or set of materials.

(D) The operator of the existing recycling depot or drop off center demonstrates to the producer responsibility organization that the cost of reimbursement it requests are reasonable and only pays for additional costs associated with collection of the additional materials. An existing recycling depot or drop off center and a producer responsibility organization will resolve any disputes concerning the reasonableness of reimbursement costs through the dispute resolution process described in ORS 459A.875(2)(e).

(c) An existing recycling depot or drop off center that contracts with a producer responsibility organization pursuant to ORS 459A.896(1) must meet all relevant requirements of the producer responsibility organization, including performance standards as described in OAR 340-090-0650 and requirements for responsible end market disposition (ORS 459A.896(2)).

(d) For purposes of paragraphs (a)(A) and (B) of this section, if a local government has more than the minimum number of depots or drop off centers required by ORS 459A.005(1)(a)(A) or 459.007(1)(g) the local government must inform a producer responsibility organization, upon request, which depots or drop off centers are being used to meet the requirements of ORS 459A.005(1)(a)(A) or 459.007(1)(g). If a local government fails to provide the information within

90 days of a request DEQ may, after consulting with the local government and producer responsibility organization, determine which depots or drop off centers are being used to meet the requirements of ORS 459A.005(1)(a)(A) or 459.007(1)(g).

(e) If a recycling depot or drop off center that does not meet the requirements of subsection (a) of this section subsequently comes into compliance with those requirements a producer responsibility organization must contract with the recycling depot or drop off center within 12 months of the recycling depot or drop off center meeting the requirements of subsection (a) of this section, provided that the recycling depot or drop off center also meets the other requirements of this section. If the addition of the recycling depot or drop of center results in the producer responsibility organization exceeding the minimum number of collection points required by subsections (2)(d) to (f) of this rule the producer responsibility organization may discontinue service at another collection point in the same community, subject to the requirements of section 4 of this rule.

(f) If a producer responsibility organization determines that it is not possible to contract with an existing recycling depot or drop off center pursuant to subsection (2)(a) of this rule, due to the exceedance of the price premium cap in paragraph (1)(b)(C) of this rule, DEQ may request financial information from both the producer responsibility organization and the existing facility to verify that the cap would be exceeded. A producer responsibility organization must provide the information requested by DEQ and may not prohibit, by nondisclosure agreement or other mechanism, the sharing of the requested information by the existing facility.

(2) Minimum number of collection points. For purposes of this section a collection point is a location that accepts from the public one or more materials on the Producer Responsibility Organization Recycling Acceptance List pursuant to OAR 340-090-0630(3) and which meets all performance standards as described in OAR 340-090-0650. A producer responsibility organization must provide the following minimum number of collection points:

(a) A producer responsibility organization must provide for collection and recycling of all covered products on the producer responsibility organization acceptance list, pursuant to OAR 340-090-0630(3), excluding those identified in OAR 340-090-0630(3)(a) and (j), at any existing recycling depot or drop off center where it is possible, as provided by subsection 1(b) of this rule.

(b) A producer responsibility organization must meet the base convenience standard described in paragraphs (d)(A), (d)(B) and (e)(A) and (B) of this section for the materials identified in OAR 340-090-0630(3)(b), (c) and (g).

(c) A producer responsibility organization must meet the enhanced convenience standard described in in paragraphs (d)(A), (d)(C) and (e)(C) and (D) of this section for the materials identified in OAR 340-090-0630(3)(d) – (f), (h) and (i).

(d) Collection points in counties.

(A) A producer responsibility organization must provide at least one collection point in every county for every covered product on the producer responsibility organization acceptance lists, excluding those identified in OAR 340-090-0630(a) and (j).

(B) For each material subject to the base convenience standard in subsection (b) of this section, a producer responsibility organization must provide one additional collection point as follows:

(i) For Clackamas, Multnomah and Washington counties, one additional collection point for every 60,000 residents of that county.

(ii) For all other counties, one additional collection point for every 40,000 residents of that county.

(C) For each material designated for enhanced convenience pursuant to subsection (c) of this section, a producer responsibility organization must provide one additional collection point as follows:

(i) For Clackamas, Multnomah and Washington counties, one additional collection point for every 45,000 residents of each county.

(ii) For all other counties, one additional collection point for every 30,000 residents of that county.

(D) Where the required number of collection points for a county exceeds the sum of the collection points required by subsections (a) and (e) of this section, the additional collection points shall be located in unincorporated areas of the county. The producer responsibility organization shall consult with the county government and consider areas recommended by the county for placement of such collection points.

(e) Collection points in cities.

(A) For every material subject to the base convenience standard in subsection (b) of this section, a producer responsibility organization must provide for at least one collection point:

(i) In each city in Clackamas, Multnomah and Washington counties with a population of 14,000 or more residents; and

(ii) In all other cities with a population of 7,000 or more residents.

(B) For every material subject to the base convenience standard in subsection (b) of this section, a producer responsibility organization must provide additional collection points in a city as follows:

(i) For cities in Clackamas, Multnomah and Washington counties, one additional collection point for every 75,000 residents of the city; and

(ii) In all other cities one additional collection point for every 35,000 residents of the city.

(C) For each material designated for enhanced convenience, pursuant to subsection (c) of this section, a producer responsibility organization must provide at least one collection point as follows:

(i) In cities in Clackamas, Multnomah and Washington counties with a population of 8,000 or more residents; and

(ii) In all other cities with a population of 4,000 or more residents.

(D) A producer responsibility organization must provide one additional collection point in a city for every covered product designated for enhanced convenience:

(i) For cities in Clackamas, Multnomah and Washington counties, one collection point for every 50,000 residents of the city; and

(ii) For all other cities one collection point for every 30,000 residents of the city.

(E) If more than one collection point for any material is required within a single city, the producer responsibility organization shall locate the collection points within the city so that no major sections of the city lack convenient service relative to other areas of the city. A producer responsibility organization must coordinate with DEQ to meet the requirements of this paragraph.

(F) If more than one collection point for any material is provided within a single city, at least 50 percent of all collection points for each material used to satisfy subsection (2)(e) of this rule shall be located in such a way as to be convenient to users of transit service, if the city is served by transit service. The producer responsibility organization shall describe in its program plan how this requirement is satisfied.

(f) A producer responsibility organization must provide sufficient collection points for all materials on the producer responsibility organization acceptance list, excluding those identified in OAR 340-090-0630(a) and (j), such that 95 percent of all residents of Oregon live within 15 miles of a collection point.

(g) A producer responsibility organization may use the same collection points to meet the requirements of subsections (a), (d), (e) and (f).

(h) A producer responsibility organization must describe in its program plan how it will provide enhanced access to recycling of materials on the producer responsibility organization acceptance list, excluding those identified in OAR 340-090-0630(a) and (j), for populations that may otherwise find it difficult to participate in service at collection points (for example valet service for vehicle users in wheelchairs and partnering with service organizations that work with homebound populations).

(3) Days and hours of operation. Collection points described in Section 2 of this rule must be available to the public as follows:

(a) If the collection point is co-located with a “parent” facility (for example a retailer if return-to-retail, or an existing depot) the same hours of operation as that parent facility is open.

(b) For all other collection points (stand-alone sites) 4 days per week (with exceptions provided for on legal holidays), at least one of which must be Saturday or Sunday and at least 8 hours each of those 4 days.

(4) Notification of changes and continuity of services.

(a) A producer responsibility organization must provide DEQ and a collection point operator at least three months’ notice in writing if a producer responsibility organization closes a collection

point. The producer responsibility organization must also provide a concurrent notice to users of the collection point using prominently placed signage at the collection point location and on a website used by the producer responsibility organization for promotion with the public. Collection point closure notices must include the following information:

(A) Date of service discontinuation; and

(B) Alternative collection point location(s) or service information.

(b) If a collection point that a producer responsibility organization is using to satisfy the requirements of subsection (2)(a) of this rule no longer meets any of the conditions of subsection (1)(b) of this rule, the producer responsibility organization must not discontinue service until one of the following occurs:

(A) The contract with the site operator expires;

(B) The program plan period ends; or

(C) The parties reach mutual agreement.

(5) If a covered product on a producer responsibility organization's recycling acceptance list pursuant to administrative rule is subsequently added to the uniform statewide collection list pursuant to ORS 459A.914(4)(b), a producer responsibility organization must meet obligations for collection as follows:

(a) only at existing recycling depots or drop off centers, as provided by subsection (2)(a) of this rule; and

(b) only if the depot or drop off center is continuing to collect the covered product separately from other materials.

(6) Convenience standards for aerosol cans and pressurized cylinders.

(a) For purposes of this section:

(A) An existing collection point for aerosol cans or pressurized cylinders is any location in Oregon that, at the time the producer responsibility organization submits its most recent Program Plan or plan amendment, either:

(i) Accepts aerosol cans or pressurized cylinders from the general public at a fixed location, such as a transfer station, and operates under a valid solid waste permit issued by the DEQ, or

(ii) Is operated by or at the direction of a Tribal government and accepts aerosol cans or pressurized cylinders from Tribal members.

(B) A collection point for aerosol cans or pressurized cylinders may choose to accept all or only a subset of aerosol cans or pressurized cylinders. For example, a collection point could choose to promote only the acceptance of "empty" pressurized cylinders, or only aerosol cans

containing lower-hazard contents, or all aerosol cans but no pressurized cylinders. Such a choice does not disqualify the operator's status as a collection point for purposes of this section.

(C) For purpose of satisfying obligations under ORS 459A.896, it is possible for a producer responsibility organization to contract with an existing collection point for aerosol cans or pressurized cylinders to share in the responsibility for recycling of such materials if the collection point meets all the following conditions:

(i) The operator of the existing collection point is willing to enter into a contract with the producer responsibility organization.

(ii) The operator of the existing collection point demonstrates to the producer responsibility organization that its reimbursement requests are reasonable and consistent with the standards contained in section (6)(b) of this rule. A collection point and a producer responsibility organization will resolve any disputes concerning the reasonableness of reimbursement costs through the dispute resolution process described in ORS 459A.875(2)(e).

(iii) The operator of the collection point must meet requirements for responsible end market disposition (ORS 459A.896(2)).

(D) If a collection point for aerosol cans or pressurized cylinders that does not meet the requirements of subsection (A) of this section subsequently comes into compliance with those requirements, a producer responsibility organization must contract with the collection point as provided in 340-090-0640(6)(c) within 6 months of the collection point meeting the requirements of subsection (A) of this section.

(b) A producer responsibility organization must contract with collection points of aerosol cans and collection points of pressurized cylinders and provide reimbursement to the operator of the collection point for the following expenses:

(A) Acceptance and initial sorting of aerosol cans and pressurized cylinders, including those accepted from the public at the collection point as well as those collected at other locations, such as remote transfer stations or household hazardous waste events and delivered to the collection point for pre-processing and consolidation. These reimbursable activities include:

(i) Receiving aerosol cans and pressurized cylinders at the collection point.

(ii) Assessing received items in order to determine their recyclability.

(iii) Separating items to be recycled from those not to be recycled.

(B) Pre-processing of aerosol cans and pressurized cylinders separated for recycling. These reimbursable activities include:

(i) Puncturing or otherwise depressurizing aerosol cans and pressurized cylinders.

(ii) Disposing of residual contents, if necessary to render the covered product recyclable, but subject to limitations described in subsection (c) of this rule.

(iii) Marking, consolidating, storing and transporting aerosol cans and pressurized cylinders prior to final delivery to a recycler.

(C) Final transportation to a recycler, and any reasonable or customary fees associated with acceptance of the material by a responsible end market.

(D) Reasonable and customary administrative and overhead costs.

(c) A producer responsibility organization's reimbursement of costs described in subsection (b) of this rule shall be limited as follows:

(A) In the event that the collection point seeks reimbursement for the disposal of residual contents removed from aerosol cans or pressurized cylinders prior to recycling, such reimbursement shall be limited to costs that would have been incurred as if the residual contents were disposed of as non-hazardous solid waste.

(B) A producer responsibility organization shall not be obligated to provide reimbursement of the costs of managing aerosol cans or pressurized cylinders that are sent for disposal, except for any initial acceptance and separation as described in subparagraph (b)(A) of this section.

(C) Total compensation shall be limited to the lesser of:

(i) Actual costs to manage, as described in subsection (b) of this rule, less any revenue received from the sale of scrap metal, or

(ii) The costs described in paragraphs (b)(A) and (b)(B) of this rule plus the per-ton practicability threshold contained in OAR 340-090-0670(5)(c).

(D) In cases where a collection point manages materials using more than one recycling disposition pathway, such as the use of one recycling responsible end market for some aerosols and the use of a different responsible end market for other aerosols or pressurized cylinders, reimbursement must differentiate between those pathways for costs described in paragraphs (b)(B) and (b)(C) of this rule.

(7) Alternative compliance.

(a) A producer responsibility organization may propose an alternative to the requirements of section 2 of this rule in writing for approval by the department. The department may consider the proposal through administrative review, through regular submittal of a producer responsibility organization program plan or through an amendment to the plan. 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 department decisions made by administrative review must be documented and communicated within 90 days of receipt of the initial proposal. All approved proposals for alternative compliance must be incorporated by the producer responsibility organization into the subsequent producer responsibility organization program plan or amendment.

(b) If a producer responsibility organization proposes to use collection events as an alternative to the requirements of section 2 of this rule, such events must be predictable (fixed set of locations on a regular schedule and promoted far in advance); and widely advertised.

(c) DEQ will assess an alternative compliance proposal 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.

(8) DEQ may approve a temporary variance to the requirements of sections (2), (3) and (6) of this rule.

Statutory/Other Authority: ORS 459A.975 & 468.020
Statutes/Other Implemented: ORS 459A.860 - 459A.975
History:
DEQ 20-2024, amend filed 11/24/2024, effective 11/24/2024
DEQ 18-2023, adopt filed 11/17/2023, effective 11/17/2023

340-090-0650
Performance Standards

(1) Performance standards generally. Except as provided in section 3 of this rule, in providing for the collection and responsible recycling of covered products pursuant to ORS 459A.896(1), a producer responsibility organization must ensure that the following performance standards are met:

(a) Methods. A producer responsibility organization's program plan must provide for how the producer responsibility organization will achieve and maintain collection targets provided by OAR 340-090-0640, convenience standards provided by OAR 340-090-0650, and performance standards. For performance standards, the program plan shall include a description of how the producer responsibility organization will monitor sites and services on a regular basis to ensure compliance with, and reporting to DEQ in a timely manner of any deviations from the program plan and performance standards under this rule.

(b) Free to the public. No fee shall be charged to users of any depot or drop off services, collection events or collection services as provided under ORS 459A.896(1)(a) through (c). If depot collection is provided at a location that normally charges users to access the site (such as a gate fee at a solid waste transfer station), the producer responsibility organization must arrange to waive the fee for the delivery of any covered products on the producer responsibility organization recycling acceptance list.

(c) Promotion. A producer responsibility organization must promote the availability of collection opportunities, how to properly prepare materials for recycling and how to utilize collection

opportunities. Such promotion must use methods and materials that are clear, culturally relevant, accessible, and understandable to diverse audiences. A producer responsibility organization must make available to the public through a website that is maintained and available in multiple languages the location and hours of operation for all collection points, and information on how to properly prepare materials for collection.

(d) Accessibility. All collection services shall be reasonably accessible for users of diverse abilities, and safe to interact with for users and service operators. Collection points that are co-located with other services, such as those located inside retail businesses, shall be conveniently located and easy for users to find. Collection receptacles shall be emptied on an adequate basis such that users can deliver materials without creating an overflow situation that obstructs access, inhibits use, or creates an obstacle to pedestrian or vehicular traffic. Sites that are unstaffed during some or all hours of operation shall provide a prominently featured hotline number and protocols for quickly responding to concerns regarding site safety, environmental impacts, or accessibility.

(e) Contamination prevention and management. Collection services shall be offered and operated in ways that minimize acceptance of contamination, and that minimize the presence of contamination in outbound materials. A producer responsibility organization's program plan must include protocols for managing materials that are not on the producer responsibility organization recycling acceptance list but that are delivered to collection points or events. Such protocols must include screening and then accepting and managing the contamination appropriately, rejecting the contamination or both, and must also include providing service users with information on proper recycling or disposal options for non-accepted materials. If contamination of accumulated covered products delivered for recycling is so significant that the producer responsibility organization or its contractor elects to dispose of them, the producer responsibility organization shall, within three business days of disposal, report to the department the disposal, the amount of material disposed and reasons for disposal, and actions the producer responsibility organization will take to better prevent and manage contamination and prevent a reoccurrence at that location. The producer responsibility organization will also report the disposal of covered products in its quarterly material disposition report required by ORS 495A.887(6).

(f) Quality assurance. Collection services must be operated in a manner that maintains the quality and marketability of collected materials, including collection of materials indoors or under cover when appropriate.

(g) Litter mitigation. Collection services and associated handling of collected material must be operated in a manner to prevent litter and any other pollution to air or water.

(h) Self-reporting. A producer responsibility organization must report to DEQ, within 2 business days, any incidents that substantially impact the availability or quality of service, or which require the presence of emergency responders (for example police, medical or fire).

(i) Additional materials. A producer responsibility organization must provide written notice of its intent to accept any materials not described in OAR 340-090-0630(3) at any collection points used to satisfy the requirements of OAR 340-090-0640 at least six months prior to promotion of such acceptance to the public. Prior to promoting to the public such acceptance, a producer responsibility organization must complete the step provided by OAR 340-090-0670(3)(a)(A) and submit properly completed screening assessment forms to the department.

(2) Additional performance standards for collection events. In addition to the performance standards in section 1 of this rule, a producer responsibility organization must meet the following performance standards for collection events:

(a) Public education and outreach. A producer responsibility organization shall coordinate with relevant local governments and service providers regarding public outreach and promotion in advance of any collection event.

(b) Staffing and resourcing. A producer responsibility organization shall include in its program plan detailed policies and processes to ensure adequate staffing, managing traffic flow, ensuring safety, and contingency plans for responding to larger-than-expected turnout.

(3) Performance standards specific to aerosol cans and pressurized cylinders. The performance standards described in sections (1) and (2) of this rule do not apply to a producer responsibility organization's obligations to reimburse local governments and service providers for a portion of costs associated with the recycling of aerosol cans or pressurized cylinders. For those covered products, a producer responsibility organization must ensure that the following performance standards are met:

(a) Methods. A producer responsibility organization's program plan must provide for how the producer responsibility organization will achieve and maintain convenience standards provided by OAR 340-090-0650(6).

(b) Promotion. A producer responsibility organization must promote the availability of collection opportunities, how to properly prepare materials for recycling and how to utilize collection opportunities. Such promotion must use methods and materials that are clear, culturally relevant, accessible, and understandable to diverse audiences. A producer responsibility organization must make available to the public through a website that is maintained and available in multiple languages the location and hours of operation for all collection points, and information on how to properly prepare materials for collection.

(4) A producer responsibility organization must meet the following additional performance standards when managing block white Expanded Polystyrene:

(a) Collection and transportation of EPS must be conducted in a manner designed to reduce life cycle environmental impacts. Collected EPS shall be densified (compressed into a brick-like form, with most air removed), as described in paragraph B of this subsection, before transporting EPS a distance greater than 75 miles. An alternative threshold distance may be used if approved by DEQ in a producer responsibility organization's program plan.

(b) EPS shall be densified using technologies described in the producer responsibility organization's program plan after consideration of impacts on yield, transport quantities (density), and worker safety and exposure. Densification shall occur in a manner that minimizes worker exposure to air toxics. A producer responsibility organization may only use thermal densification technology if approved to do so by DEQ in its program plan or a plan amendment. A producer responsibility organization must include an assessment of potential impacts to workers and methods that will be followed to minimize such impacts.

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

340-090-0670
Responsible End Market Obligations of the Producer Responsibility Organization

(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 remelts 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 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:

(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:

(i) 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 makes available to relevant certification bodies any penalties, violations or regulatory orders received, and

(ii) provides disposition data to an upstream supplier of materials, DEQ, a PRO, or a commingled recycling processing facility to the extent that the data is needed by a PRO or a commingled recycling processing facility to meet their quarterly reporting obligations pursuant to ORS 459A.887(6) or ORS 459A.955(2)(h)(A)(i).

(C) Environmentally-sound. Meaning the entity:

(i) 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.

(ii) As part of avoiding release into the environment, an entity that manages plastics must:

(I) either implement a sufficient management framework to eliminate plastic resin loss, or successfully eliminate plastic resin loss, and

(II) implement action to limit emissions of microplastics, which are plastic particles ranging from one nanometer to five thousand micrometers in size, including quantification and disclosure of the discharge of suspended solid wastes including microplastics into water to a relevant verification or certification body.

(iii) As part of demonstrating sustainable management of inputs, facilities must:

(I) Disclose the following chemicals to the verification or certification body, if the chemicals are either intentionally added to products or used as part of the recycling process: lead, mercury, cadmium, hexavalent chromium, phthalates, PFAS, and any other chemicals required to be disclosed to regulators by permit or local regulation. Disclosure is not required to the extent the chemicals are in products used for equipment maintenance.

(II) If located in an area identified as having “medium risk” or higher by the World Wildlife Fund’s Water Risk Filter for Water Availability, or as having “medium-high” risk or higher by the World Resource Institute’s Aqueduct Water Risk Tool for either Water Stress or Water Depletion, disclose the average volume of blue water used daily to the verification or certification body.

(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.

(E) For shredded paper processed into high-grade office paper and cartons processed into tissue, achieving adequate recycling yields means the recycling supply chain recycles or causes to be recycled at least 50 percent of each material.

(c) Recycling yield, as stated in Section 2(b)(D) and (E) 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, if practical to do so, 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(3)(a)(B), 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 the estimate and a methodological justification provided to the relevant verification or certification body. Verification and certification bodies may report yield performance of a particular facility to DEQ in pass-fail format.

(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 three steps:

(A) 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 standards set forth in Section 2 of this rule.

(B) A producer responsibility organization must ensure that each end market and other downstream entity provides quarterly disposition data that is sufficient to enable complete disposition reporting as described at OAR 340-090-0670(6), including for material not under the control of the PRO, to the extent practicable.

(C) A producer responsibility organization must also 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), or prior to sending materials to markets added after the start date of the program. For materials delivered to end markets for recycling on or before June 30, 2026, the step required under paragraph (a)(C) 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)(C) within 12 months of first delivery to the end market.

(c) For materials described under ORS 459A.869(7)(b) and any other materials not collected by the producer responsibility organization, except as provided by paragraph (e) of this rule, 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), or prior to sending materials to markets added after the start date of the program. For materials delivered to end markets for recycling on or before June 30, 2026, the step provided by paragraph (a)(C) 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)(C) within 12 months of first delivery to the end market.

(d) For materials described under ORS 459A.869(7)(b), except as provided by paragraph (e) of this rule, a producer responsibility organization must complete the step provided by paragraph (a)(B) beginning with the quarterly disposition data covering the period that begins January 1, 2030.

(e) Self-attestation, disposition reporting, and verification or certification for facilities that receive and remelt loose scrap metal from Oregon and that do not receive and remelt Oregon-origin baled material are not required until January 1, 2033.

(f) If a producer responsibility organization completes the step provided by paragraph (a)(C) 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).

(g) 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.

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

(i) The producer responsibility verification required by paragraph (a)(C) 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) The name(s) and location(s) of entities that are required to disclose blue water use in accordance with subparagraph 2(b)(C)(iii)(II) of this rule.

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

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

(G) 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.

(j) The detailed verifications required by paragraph (a)(C) 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.

(k) As part of its annual report to DEQ, a producer responsibility organization must report the number of assessed entities that disclosed use of lead, mercury, cadmium, hexavalent chromium, phthalates or PFAS, for each of four types of markets, as follows:

(A) Markets that process glass,

(B) Markets that process paper,

(C) Markets that process plastic, and

(D) Markets that process metal.

(l) 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. If it is infeasible to conduct random bale tracking safely and without violation of other applicable regulations, a producer responsibility organization may submit a claim in its program plan or a plan amendment that it is infeasible to fulfill the obligation to conduct random bale tracking. The department will review and evaluate the producer responsibility organization's claim, and if it accepts the claim, will grant variance to the producer responsibility organization with respect to the random bale tracking requirement.

(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.

(F) With prior approval from DEQ and for a period of limited duration, facilitate disposition of material to an end market that is not yet self-attested, verified or certified but which has potential to become so.

(b) A producer responsibility organization must carry out practicable actions to meet the responsible end market standards in section 2 of this rule if DEQ determines that there are insufficient responsible end markets for a particular covered product.

c) Prior to determining that there are insufficient responsible end markets for a particular covered product, DEQ shall take actions including but not necessarily limited to:

(A) Requesting documentation from relevant parties regarding their experience attempting to market the covered product in question. Such documentation may include quantities, bale audits, pictures of materials, descriptions of storage conditions and information regarding cost and price estimates.

(B) Consulting with a producer responsibility organization regarding possible solutions and alternatives.

(C) Providing the producer responsibility organization with an opportunity to engage with relevant parties and address challenges cited.

(D) If the challenge with marketing materials to a responsible end market involves a commingled recycling processing facility or limited sort facility that is permitted by DEQ, assessing whether the facility is complying with permit conditions, including performance standards as described in OAR 340-096-0300(3).

(d) 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.

(i) For a material described under ORS 459A.869(7)(b) and any other material not collected by the producer responsibility organization, the producer responsibility organization shall count toward the practicability benchmark only the differential cost between two scenarios: a) the current cost of delivering to and recycling the material at an end market that is not recognized as responsible by the State of Oregon, and b) the anticipated costs of delivering to and recycling the material at a responsible end market.

(ii) For a material described under ORS 459A.869(7)(a) and any other material collected by the producer responsibility organization, the producer responsibility organization may count toward the practicability threshold all costs of delivering to and recycling the material at a responsible end market.

(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.

(e) 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 producer responsibility organization is not required to implement the practicable actions, pursuant to ORS 459A.896(2). The department will also review the material in question and its inclusion in a recycling acceptance list. Pending completion of the department's reviews under this subsection, the producer responsibility organization's obligations under ORS 459A.896(2) with respect to the material that is the subject of the claim are suspended. If the department’s review

determines that an action is practicable, then the producer responsibility organization must undertake that action. If a producer responsibility organization claims an action is not practicable due to costs for a material described under ORS 459A.869(7)(a), and the department agrees with the claim, the producer responsibility organization is not required to implement a practicable action that is imposed only under ORS 459A.896(2), and still must meet all obligations imposed by ORS 459A.896(1).

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

(6) Reporting. 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 all reports other than the first report due no later than 45 days after the end of the end of each calendar quarter.

(A) The first disposition report is due December 31, 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 reporting categories designated by the department. The department will communicate changes to reporting categories no less than 15 days before the beginning of the quarter to be reported on using the new categories.

(ii) When reporting disposition for supply chains in which materials described in ORS 459A.869(7) 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. Examples of such methods are the controlled blending methodology and the 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 paragraphs (c)(A) and (c)(B) of this rule. Such accounting may exclude individual destinations as follows:

(i) A single commingled recycling processing facility, single limited sort facility, or the producer responsibility organization shall first calculate the total tons sent onward for subsequent processing, to end markets or other disposition, for each material by reporting category for each calendar quarter. For materials collected by the producer responsibility organization at collection points used to meet convenience standards pursuant to OAR 340-090-0640(2) and (6), the producer responsibility organization shall sum together the tons sent to end markets or other disposition by reporting category for each calendar quarter across all of its collection points.

(ii) If a single commingled recycling processing facility, single limited sort facility, or the producer responsibility organization sends to an individual end market or to an entity in the supply chain leading up to the end market less than one percent of the material in a given reporting category during a given quarter, as calculated in subparagraph (i) above, then reporting of that destination may be excluded, subject to limitations described elsewhere in this rule. This exclusion does not apply to other locations where material disposition occurs (including landfills and incinerators), nor to entities along pathways leading to locations where material disposition occurs.

(iii) A single commingled recycling processing facility, single limited sort facility, or the producer responsibility organization may use the exclusion described in subparagraph (ii) for no more than ten percent of the disposition of materials in any given reporting category for a given quarter, as determined in subparagraph (i) above.

(iv) Any tonnages sent to destinations excluded from reporting must still be reported to DEQ and shall be aggregated together and reported as “materials sent to destinations excluded from disclosure under OAR 340-090-0670(6)(c)(C).”

(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.

Statutory/Other Authority: ORS 459A.975 & 468.020
Statutes/Other Implemented: ORS 459A.860 - 459A.975
History:
DEQ 20-2024, amend filed 11/24/2024, effective 11/24/2024
DEQ 18-2023, adopt filed 11/17/2023, effective 11/17/2023

340-090-0720
Program Calendar

(1) The first producer responsibility program plan period will run for three years from the date of plan approval.

(2) Subsequent producer responsibility program plan periods will run for five-year increments or less, beginning on January 1 and ending on December 31 four calendar years later, or if plan approval occurs following January 1, then beginning upon plan approval and ending on December 31 four calendar years later (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).

(3) Prospective new producer responsibility organizations may submit program plans on the same calendar as renewal applicants (180 days before the end of a program period) and may also submit plans at other times (for example, midstream in a program period) upon petitioning DEQ and receiving advance approval.

(4) Any program plan submitted under OAR 340-090-0720(3) must include evidence that the prospective producer responsibility organization is capable of meeting the 10% minimum market share threshold per ORS 459A.869(12).

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

340-090-0770
Local Government Transportation Costs Reimbursement

(1) A producer responsibility organization must pay the costs of transporting covered products from a recycling depot or recycling reload facility to a commingled recycling processing facility or a responsible end market as provided by ORS 459A.890(2) and this rule.

(2) Transportation costs must be based on the actual costs of managing and transporting covered products that must be shipped more than 50 miles.

(3) The 50-mile distance in section 2 of this rule and ORS 459A.890(2)(b)(E) is the shortest driving distance to the nearest commingled recycling processing facility or a responsible end market with capacity to accept the material and applies to covered products as stated in subsections (a) through (d) of this section.

(a) If the material is fully commingled, the distance measured is to the nearest commingled recycling processing facility with capacity to accept the material.

(b) If the material is collected separately (for example glass) or is not fully commingled and requires further sorting or processing before being received by a responsible end market, then the distance is measured to the nearest processing or sorting facility that will prepare the material and send it to a responsible end market or, for glass material collected separately, a consolidation point that does not charge for the acceptance of glass and ensures that all covered glass product handled is transported to a responsible end market that accepts and desires the material. A consolidation point is a facility that operates in a manner similar to a recycling reload facility, as defined under ORS 459A.863(27), where curbside/on-route and

drop-off collection programs deliver smaller loads of collected glass for the purposes of consolidation and transport to a responsible end market.

(c) For covered material, excluding glass material, that is transported to multiple recycling reload facilities or commingled recycling reload facilities before being delivered to a commingled recycling processing facility or responsible end market, the distance is measured from the initial reload or depot point to the nearest commingled recycling processing facility or a responsible end market, with all points in between being covered.

(d) If the material is collected separately and in a condition that would allow it to be received directly by a responsible end market without additional processing, then the distance is measured to the nearest responsible end market, or commingled recycling processing facility, whichever is closer.

(e) If a separated material or a group of materials is initially taken to a commingled recycling processing facility or other processing facility and the material requires additional processing or sorting before it can be accepted by a responsible end market, then the distance is measured to the nearest initial commingled recycling processing facility or other processing facility. The producer responsibility organization is not responsible under this rule for paying the transportation costs associated with the transport of material from the initial commingled recycling processing facility or other processing facility to additional processing facilities or a responsible end market.

(4) Costs to receive, consolidate, load and transport covered products include, but are not limited to, purchasing and maintaining equipment, signage, and other similar costs of operating the recycling depot or recycling reload facility not already covered under other sections of ORS 459A.860 through ORS 459A.975. Costs incurred before the receiving of covered products at a recycling depot or reload facility are not eligible for compensation unless noted elsewhere.

(5) Transportation costs include administrative costs related to the activities described in ORS 459A.890(2). Administrative costs include, but are not limited to, costs related to staffing and the hiring and managing of staff.

(6) Transportation costs do not include the proportion of a shipment of recyclable material that is not covered products, as provided by ORS 459A.890(2)(b)(C). Costs that are not eligible for payment under ORS 459A.890(2)(b)(C) will be determined as stated in subsections (a) through (c) of this section.

(a) Until completion of the study described in subsection (b) of this section, a producer responsibility organization will use data from the 2023 Oregon Solid Waste Characterization and Composition Study to determine the proportion of a shipment of recyclable material that is not covered products.

(b) Starting in 2027, and at least once every five years thereafter, a producer responsibility organization must fund a study to determine the proportion of collected recyclable material that is covered product and is eligible for transportation costs reimbursement. The study will include the following:

(A) The study will provide statewide averages for the proportion of covered material in commingled recyclable material, recyclable material that is collected separately and recyclable

material that is not fully commingled. For the latter two categories the study may provide different averages for different materials as appropriate.

(B) Study protocols and timing must be included in the producer responsibility organization's program plan and will be approved as a part of plan approval under ORS 459A.878. If multiple producer responsibility organization program plans are approved by DEQ, the producer responsibility organizations' coordinating body will undertake one study and submit a joint study protocol to DEQ for approval in the manner provided by DEQ.

(C) Upon completion of a study, a producer responsibility organization, or coordinating body, will use the statewide averages from the study to determine the proportion of a shipment of recyclable material that is not covered products.

(c) If a local government, a local government's service provider or a producer responsibility organization believes that the local commingled recycling stream has a substantially different proportion of recyclable material that is not covered products compared to the statewide average, then a local government, a local government's service provider or a producer responsibility organization may, at their own expense, conduct a study to better determine the proportion of recyclable material that is not covered products in the local collected commingled recycling stream. The party conducting the study will provide the other parties and DEQ at least 30 days to comment on study methods. The dispute resolution process in the producer responsibility organization's approved program plan shall apply to any dispute between the producer responsibility organization, or a coordinating body, and the local government or local government's service provider regarding a study performed under this subsection. Upon completion of the study and subject to dispute resolution and DEQ concurrence, the averages determined in the study will be used by a producer responsibility organization, or a coordinating body, and the local government or local government's service provider that performed the study.

(7) Transportation costs include the cost to receive, consolidate, and load covered products. If a shipment of material contains both covered products and material that is not covered products, the cost a producer responsibility organization, or a coordinating body, must pay to receive, consolidate and load are the costs associated with the covered product. If such costs associated with the covered products cannot be separated from such costs associated with material that is not covered product and a producer responsibility organization and a local government or local government's service provider cannot otherwise agree on the payment of such costs, the producer responsibility organization, or coordinating body, will pay the total cost to receive, consolidate and load the material reduced by the estimated proportion of the material that is not covered product.

(8) For purposes of this rule, material is not fully commingled if a load of recyclable material intended to be transported to a commingled recycling processing facility contains some but not all the material listed on the Uniform Statewide Collection List.

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

340-090-0820
Processor Commodity Risk Fee

Under ORS 459A.923, 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 materials received during a given month within five business days of the start of 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 weighting 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) DEQ shall determine the commodity weighting factors as provided by this subsection.

(A) Beginning July 1, 2025, and until DEQ updates the commodity weighting factors, as described in Paragraph (B) of this Subsection, the commodity weighting factors shall be:

(i) Cardboard, 0.50;

(ii) Paper Fiber other than Cardboard, 0.33;

(iii) Polyethylene Terephthalate (PET), 0.021;

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

(v) High-Density Polyethylene, Color, 0.02;

(vi) Mixed Plastic, 0.013;

(vii) Tin and Steel Cans, 0.014;

(viii) Aluminum, 0.008; and

(ix) Other Materials (including contamination), 0.079.

(B) DEQ shall update the commodity weighting factors provided by Paragraph (A) of this Subsection as follows:

(i) DEQ shall review material disposition data for commingled recyclables and other materials (including contamination) reported to it by commingled recycling processing facilities, pursuant to OAR 340-096-0310(2)(a)(B), on a quarterly basis. DEQ shall also review any corrections reported to data from prior quarters that DEQ has not previously considered in the calculation of commodity weighting factors.

(ii) DEQ shall add tonnages of disposition data and corrections reported to DEQ to generate a statewide total for each material category described in Subparagraphs (i) to (ix) of Paragraph (A).

(iii) DEQ shall add tonnages calculated under Subparagraph (2) of this Paragraph for all material categories to determine the total of all materials.

(iv) DEQ shall divide material category-specific results determined under Subparagraph (2) of this Paragraph by results of Subparagraph (3) of this Paragraph for a compositional value for each material.

(v) The results of Subparagraph (4) of this paragraph shall be the commodity weighting factors.

(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. Unprocessed tons are ineligible for invoicing.

(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 recyclable material 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 on an invoice any amount of material that is eligible to be invoiced for the purpose of receiving Contamination Management Fee funding, pursuant to OAR 340-090-0830.

(5) Reporting and Review.

(a) A commingled recycling processing facility shall report information related to the fee, Reporting shall include:

(A) Information to ensure that producers share in the costs of fully processing commingled recyclables that are covered products and to allow local governments to reduce the financial impacts on ratepayers, as described in this rule; and

(B) as Any other information required by DEQ, including but not limited, monthly transactional data associated with each inbound load of commingled recyclables received by the processing facility such as transactional-level data identifying the number of tons received per jurisdiction the service provider collected the load from and any special fees assessed for contamination. Such information shall be provided on forms provided by DEQ.

(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.

Statutory/Other Authority: ORS 459A.923
Statutes/Other Implemented: ORS 459A.923
History:
DEQ 10-2025, minor correction filed 04/04/2025, effective 04/04/2025
DEQ 20-2024, adopt filed 11/24/2024, effective 11/24/2024

340-090-0840
Covered Products

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

(a) Packaging includes materials used in storage. A storage item 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, food containers for perishable or non-perishable foods, plastic storage containers for durable items including large bins with and without lids, and garbage bags unless exempted by OAR 340-090-0840(2)(f).

(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 materials used for shipping or moving. A shipping or moving item is used for shipping or moving products and includes but is not limited to boxes, envelopes, labels, bubble wrap, packing peanuts, packing paper and packing tape.

(d) Food serviceware includes wraps sold directly to consumers, including but not limited to aluminum foil, film wrap, wax paper, and parchment paper.

(e) 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. As used in this Subsection, ready to eat food is prepared or cooked in advance, with no further cooking or preparation required before consumption.

(2) The following are not covered products:

(a) Packaging that is used for the long-term (five or more years) storage of a durable good as defined by the Bureau of Economic Analysis, United States Department of Commerce, in its online glossary at https://www.bea.gov/help/glossary/durable-goods.

(b) Packaging of the following medical devices:

(A) Class II medical devices, as defined in the Federal Food, Drug, and Cosmetics Act at 21 U.S.C. Sec. 360(c), that are sold labeled as sterile and for which a 510(k) premarket notification pursuant to 21 U.S.C. Sec. 360(k) has been cleared by the Food and Drug Administration.

(B) Class III medical devices as defined in the Federal Food, Drug, and Cosmetics Act at 21 U.S.C. Sec. 360(c).

(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 Federal Insecticide, Fungicide and Rodenticide Act at 7 U.S.C. Sec. 136a 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, adjuvants, surfactants, and agricultural amendments produced by members of the Ag Container Recycling Council or ACRC and eligible for collection by ACRC, but only if conditions described in OAR 340-090-0841 are met.

(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.

(f) Garbage bags. For purposes of this exemption a garbage bag is a plastic bag intended to be used primarily for containing landfill-bound garbage. In determining the intended use of the plastic bag for this exemption, DEQ will consider how the plastic bags are marketed to the public in Oregon and any other relevant information. Plastic bags that are labeled or marketed as a storage item, intended to be used primarily for the purposes of containing or presenting a consumer product, or primarily for any purpose other than containing landfill-bound garbage, are not eligible for this exemption.

(A) To qualify for this exemption a producer must:

(i) Not market in Oregon, through text on the packaging, that any plastic bags similar to a garbage bag sold at physical retail in Oregon fulfill a purpose of recycling any covered products on Oregon's uniform statewide collection list,

(ii) Not market in Oregon, through text on either the packaging or the e-commerce platform, that any plastic bags similar to a garbage bag remotely sold or distributed into Oregon fulfill a purpose of recycling any covered products on Oregon's uniform statewide collection list,

(iii) If the producer becomes aware of another party selling its plastic bags similar to a garbage bag in or into Oregon in packaging that indicates that the bags fulfill a purpose of recycling any covered products on Oregon's uniform statewide collection list, submit a request to that party, or to the party that owns the selling platform being used, directing or asking them to stop selling the product in or into Oregon or to remove the claim that the bags fulfill that purpose,

(iv) annually certify that it meets the conditions described in subparagraph (i) through (iii) of this paragraph.

(v) be in compliance with the requirements of ORS 459A.869 prior to January 1 2027, or otherwise have entered into an agreement with a Department-approved producer responsibility organization to pay back fees that the producer would have owed prior to January 1 2027.

(B) For purposes of this exemption, the term "market" means to provide, create, use, communicate, approve or distribute packaging and labeling claims, product descriptions, and promotional materials including on-product packaging, producer websites, and producer-managed sales channels. The term "market" includes only activities performed by or on behalf of the producer for products sold or offered for sale in the state of Oregon, and does not include any marketing content directed to states other than Oregon, including third-party retailer product-detail pages, search-engine summaries, and consumer-generated content, unless the producer provided the specific text or imagery, or authorization of such text or imagery. General statements about film strength, transparency, or capacity, and depictions of ordinary household refuse, do not constitute a representation, nor do design elements such as color or dimensions.

(g) Leased reusable plastic containers.

(h) Labels that, if not removed, interfere with use of the product, e.g. labels on the windshields of vehicles for sale, hang tags, produce stickers, etc.

(i) Drum containers of 10 gallons or more in volume.

(j) Rigid Intermediate Bulk Containers, as defined at ISO 15867:2003, and Intermediate Bulk Container totes (e.g. inclusive of frames or protective cages that contain IBCs),

(k) Flexible, Intermediate Bulk Containers as defined at ISO 21898:2004 and designed to hold at least 500 kg of product. These are also known as “supersacks,” are typically made from polypropylene and are equipped with lifting devices in order to carry dry, flowable products

(l) Gaylords, which are large, bulk-sized cardboard boxes designed for storing bulk materials, and crates made of wood or a combination of wood and corrugated cardboard with a volume of 33.8ft3 (standard size) or greater and that are used only in industrial or manufacturing processes.

(m) Plastic film packaging, including stretch wrap and overwrap, and absorbent pads, used in direct contact with raw, not-ready-to-eat meat, which includes beef, lamb, pork, poultry, fish and other seafood. This exemption is valid through December 31 2032. This exemption does not apply to:

(A) Packaging used for products marketed for consumption by animals.

(B) Rigid and semi-rigid trays manufactured from materials other than a roll of flexible film.

(n) Any material for which any public body similarly situated to a public body described in ORS 459A.863(32)(b) would be responsible under ORS 459A.869.

(3) For purposes of ORS 459A.869(13), an exemption for products collected and recycled outside of Opportunity To Recycle:

(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 that does not send materials to a commingled recycling processing facility before they go 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)(g) 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)(C). 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. If no third-party certification has been approved by the Environmental Quality Commission and the producer responsibility organization has not verified the supply chain facilities; self-attestation of the entities downstream of collection through to the end market and any disposal facilities will be considered sufficient to demonstrate responsible status. Disposal facilities need not be self-attested for any disposition that occurs prior to January 1, 2030. Self-attestation alone will be considered sufficient to demonstrate responsible status until the beginning of the second calendar year that begins following 182 days after the effective date of the Commission adopting a third-party certification program for verifying responsible end markets.

(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).

(e) For materials that are collected in one year and recycled at a responsible end market in a subsequent year, the materials are considered to be recycled, and the exemption is provided for the year in which the materials are recycled at a responsible end market.

(f) Producers shall demonstrate qualification for the exemption using a claims form provided by the department. The claims process shall follow the same timeline as that of producer fee-setting stipulated under OAR 340-090-0700(4)(b) – information provided by producers on recycling at a responsible end market two years prior to a given fee year will inform the exemptions granted for that fee year. For example, exemptions for the 2029 fee year will be granted on the basis of recycling at a responsible end market that occurred in 2027 and that was reported in 2028. Claims for exemptions under ORS 459A.869(13) will be solicited during the first quarter of each year, with producers populating the claims form with information about the disposition of their material in the previous year as well as any associated collection and processing.

(g) Should DEQ possess adequate information about the total volume of a specific material that is privately-recycled statewide, DEQ may provide a simplified, alternative process to producers for claiming the exemption for that material.

Statutory/Other Authority: ORS 459A.863
Statutes/Other Implemented: ORS 459A.863
History:
DEQ 20-2024, adopt filed 11/24/2024, effective 11/24/2024

340-090-0841
Covered Product Exemption for Agricultural Chemical Packaging

(1) A member of the Ag Container Recycling Council may obtain a covered product exemption as described in OAR 340-090-0840(2)(d)(D). Such an exemption shall be granted if the conditions in Sections (2) through (4) of this rule are met for the year prior to the given year in which an exemption is granted. An exemption granted during a given year shall apply to the member's obligation to report to a PRO prior-year's supply quantities during that given year and to pay fees on those supply quantities in the year following the given year.

(2) In order for members to qualify for a covered product exemption as described in OAR 340-090-0840(2)(d)(D), the ACRC must maintain a recycling rate at least equal to the arithmetic mean of the recycling rates for 2023, 2024, and 2025, as reported by ACRC and accepted by DEQ.

(a) The recycling rate shall be expressed as a percentage and calculated as a numerator divided by a denominator.

(b) The numerator shall be the lesser of:

(A) The mass of rigid HDPE packaging of commercial-use pesticides, fertilizers, adjuvants, surfactants and agricultural amendments collected by ACRC from users in Oregon for the purpose of recycling during the calendar year; or

(B) The mass of rigid HDPE packaging of commercial-use pesticides, fertilizers, adjuvants, surfactants and agricultural amendments that were collected at any time from users in Oregon for the purpose of recycling and that were sold during the calendar year to end users for use in producing a new product and to reclaimers, such as a producer of flake or pellet.

(c) The denominator shall be the mass of rigid HDPE packaging of commercial-use pesticides, fertilizers, adjuvants, surfactants and agricultural amendments produced by members of the ACRC and sold in or into Oregon during the same calendar year.

(d) In calculating the mass of rigid HDPE packaging sold to end users and reclaimers, in the event that materials collected from Oregon are stored with or adjacent to materials collected from other states, ACRC shall either physically segregate Oregon-sourced materials from other materials, or shall report Oregon-sourced quantities using a proportional allocation method consistent with OAR 340-090-0640(6)(c)(B)(ii).

(e) ACRC must submit to DEQ's satisfaction the prior year's recycling rate and all information used to calculate the recycling rate by April 1 of the year in which members are seeking exemptions.

(3) In order for members to qualify for a covered product exemption as described in OAR 340-090-0840(2)(d)(D), the ACRC must maintain standards of convenience, as described below, at least equal to the arithmetic mean of the standards of convenience for 2023, 2024, and 2025, as reported by ACRC and accepted by DEQ.

(a) The standards of convenience consist of the following three elements. All three elements must be met in order for ACRC members to qualify for the exemption.

A. Number of sites statewide. During the calendar year being assessed, ACRC must have provided for collections from at least 132 unique sites in Oregon.

B. Number of counties. During the calendar year being assessed, ACRC must have provided for collections from at least 3 unique retail, government, permitted solid waste disposal site or similar locations that provide access to multiple users in each of 22 counties.

C. The 22 counties used to meet element (B) must collectively have a combined market value of agricultural products sold equaling at least 85 percent of Oregon's total market value of agricultural products sold. The market value of agricultural products sold will be drawn from the most current USDA Agricultural Census available as of December 31 of the year for which the standard of convenience is being calculated.

(b) ACRC must submit to DEQ's satisfaction demonstration that the standards of convenience for the prior year are met by April 1 of the year in which members are seeking exemptions.

(4) In order for members to qualify for a covered product exemption as described in OAR 340-090-0840(2)(d)(D) the ACRC must demonstrate that at least the same quantity of materials counted in the numerator of the recycling rate in paragraph 2(b) of this rule were recycled at responsible end markets, consistent with definitions provided in OAR 340-090-0670(1) and standards provided in OAR 340-090-0670(2). To satisfy this requirement, the ACRC shall implement the same requirements of a PRO as described in OAR 340-090-0670(3), (4), and (6), with the following differences:

(a) Prior to any material being sent to a market or other downstream entity, the ACRC must first, using a screening assessment form provided by DEQ, receive and corroborate written verification from each market and other downstream entity that it meets the standards set forth in OAR 340-090-0670(2).

(b) The ACRC is not required to perform verification of end markets as described in OAR 340-090-0670(3)(a)(B). However, after the Environmental Quality Commission adopts an administrative rule that first establishes a program for certifying responsible end markets, then commencing the start of the following year that begins at least 182 days after the effective date of such a new rule, the ACRC must ensure that Oregon-collected materials sent for recycling and being used to count towards the numerator of the recycling rate are only sent to end markets or other downstream entities that are certified against a Commission-approved certification program.

(5) Once every five years and beginning no later than in 2027, ACRC must corroborate its self-reporting by arranging and paying for a third-party audit of its collection program in Oregon and providing results to the satisfaction of the department. Failure to meet this requirement will result in covered product exemptions as described in OAR 340-090-0840(2)(d)(D) not being available to members of ACRC until such time as ACRC complies with this requirement.

Statutory/Other Authority: ORS 459A.863
Statutes/Other Implemented: ORS 459A.863

340-090-0860
Producer Definitions

(1) Tiered producer definition for items sold in packaging at a physical retail location in this state. 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.

(c) If there are multiple manufacturers for an item sold in packaging under a brand, the producer is the manufacturer that owns the brand.

(d) If there are multiple manufacturers for an item sold in packaging that lacks identification of a brand, the producer is the manufacturer that directed the manufacturing of the packaged item.

(e) If there are multiple manufacturers for an item sold in packaging that contains multiple brands, the producer is the manufacturer that directed the manufacturing of the packaged item.

(f) Items sold at a physical retail location includes any sales where the buyer takes physical possession of their purchase in or at a physical space that is owned or operated by the seller.

(g) Items sold in packaging or "sold or distributed in packaging" include items that are packaged at any point in their supply chain from manufacturing to distribution or sale to a consumer. An item is still sold in packaging if the packaging is removed prior to the item's distribution or sale to a consumer.

(h) If an item is sold in packaging at a physical location, the producer of that item, as determined by ORS 459A.866(1)(a) and this rule, is responsible for all covered product packaging related to the item, regardless of any supply chain transactions that may have preceded the item being sold in a physical location. Except that if an entity in the supply chain that is not a manufacturer of the packaged item adds additional covered product packaging to the item, then that entity is the producer responsible for the added packaging, as provided in ORS 459A.866(1)(b)(B).

(2) Producer definition for items sold in packaging in or into this state via remote sale or distribution. For purposes of ORS 459A.866(1)(b):

(a) Remote sale or distribution is any transfer of items in packaging that occur with the parties involved at a spatial distance from one another, including arrangements made by phone, internet, and contract.

(b) The consumer is the end user of an item in packaging, that uses the item in any way other than simply reselling or redistributing the item as is. A person that uses an item in packaging in the process of making a new item, such as a part used to make a machine, or a food ingredient used to make a food product, is the consumer of that packaged item.

(3) The producer of a storage item, as defined at OAR 340-090-0840(1)(a), 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.

(4) The producer of shipping or moving items, as defined at OAR 340-090-0840(1)(c), sold at a physical retail location in this state shall be determined as follows:

(a) If the shipping or moving item is sold under the manufacturer's own brand or is sold without identification of a brand, the producer of the shipping or moving item is the person that manufactures the shipping or moving item;

(b) If the shipping or moving item is manufactured by a person other than the brand owner, the producer of the shipping or moving item is the person that is the licensee of a brand or trademark under which the shipping or moving 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 shipping or moving item into the United States for use in a commercial enterprise that sells, offers for sale or distributes the item in this state.

(5) 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 sells the packaging in or into this state.

(6) For purposes of determining the obligated producer for printing and writing paper:

(a) Pursuant to ORS 459A.866(2)(a), the publisher is the producer of printing and writing paper that is a magazine, newspaper, catalog, telephone directory, or other specialty-printed publication.

(b) Pursuant to ORS 459A.866(2)(b)(A)-(C), a three-tiered definition is used to determine the producer of all printing and writing paper that is not a specialty-printed publication.

(c) Prevention of double-counting. In the case that a specialty-printed publication is produced from paper used for copying, writing, or other general use (for example, from a ream of 8.5x11 paper), the three-tiered definition at ORS 459A.866(2)(b) applies to determine the producer for the source paper, and the publisher is not the producer.

(d) Pursuant to ORS 459A.866(2)(b)(A), a person that manufactures a printing and writing paper product includes a person that directs the manufacturing of the product, including setting specifications for the product. Purchasing or ordering a product for retail sale in the normal course of business is not directing manufacturing.

(7) For purposes of identifying large and small producers pursuant to 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, and for determining producer eligibility for uniform fees pursuant to ORS 459A.884(6).

(8) Assignment of producer obligation. For all cases in which someone other than the obligated producer for covered products (the producer identified through application of the producer definitions at ORS 459A.866) voluntarily registers with, reports supply data to, and/or pays fees to a producer responsibility organization on behalf of the obligated producer, the obligated producer and the voluntary producer must formalize their arrangement through one of the following:

(a) A three-party contract with a producer responsibility organization that provides the producer responsibility organization 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 with the following three successive steps:

(A) First, 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.

(B) Next, the voluntary producer, when fulfilling the assigned obligation(s), must inform the producer responsibility organization of the associated registration and its details, thereby acknowledging that it is fulfilling obligation on behalf of another producer.

(C) Finally, the producer responsibility organization shall inform DEQ that the registered obligation has been successfully fulfilled.

Statutory/Other Authority: ORS 459A.866
Statutes/Other Implemented: ORS 459A.866
History:
DEQ 20-2024, adopt filed 11/24/2024, effective 11/24/2024

340-090-0900
Life Cycle Evaluation Definitions

Terms used in OAR 340-090-0910 to 0940 have the meanings provided by this rule.

(1) Allocation has the meaning provided by ISO 14044:2016: partitioning the input or output flows of a process or a product system between the product system under study and one or more other product systems.

(2) Attributional Life Cycle Assessment means an approach to life cycle assessment that attempts to provide information about the portion of global environmental, human health, and natural resource use impacts that can be associated with a particular product and its life cycle.

(3) Biogenic Carbon means carbon dioxide (CO_2) that is removed from the atmosphere by plants, through photosynthesis. This is distinct from fossil carbon, which comes from the combustion of fossil fuels and is not part of the natural carbon cycle.

(4) Break-even point means the number of reuses required for the environmental impact of a reusable or refillable packaging product to equal the environmental impact of an alternative single use covered product. Any additional reuse cycles of a reusable or refillable packaging product beyond the break-even point would result in environmental savings.

(5) Characterization factor means a numeric value derived from environmental modeling that is used to convert a particular life cycle inventory analysis result expressed in distinct units to the common unit used for all inventory analysis results that feed into a particular category indicator.

(6) Contaminant means trace amounts of chemicals that are incidental to manufacturing and that serve no intended function in the product component, including but not limited to:

(a) Unintended by-products of chemical reactions during the manufacture of the product component;

(b) Trace impurities in feedstock;

(c) Incompletely reacted chemical mixtures; and

(d) Degradation products.

(7) Cradle-to-grave means a product's life-cycle that includes all relevant inputs and outputs of raw material extraction, processing, distribution, storage, use, and disposal or recycling stages.

(8) Cut-off criteria means thresholds for exclusion of particular flows or unit processes from a study on the basis of their amounts or the level of their environmental significance for the product system.

(9) Double-Counting means an error in life cycle assessment whereby a flow, unit process, or other function is represented in a duplicative manner.

(10) Durable means designed to accomplish as many use cycles as possible in normally predictable conditions of use.

(11) Environmental relevance means, the connection to and contribution of, an input or output within the life cycle inventory to an overall environmental impact (e.g. global warming potential).

(12) Flow means a quantified input to or output from a product system. Specific flow definitions are provided by ISO 14044 § 3.12, 3.13, 3.22, 3.27 and 3.29 apply.

(13) Functional unit means a clearly defined and measurable reference unit for life cycle assessment that describes a fixed amount of material used to fulfill a particular function for a particular quantity, quality, and duration. All input and output data of the life cycle assessment, generated pursuant to OAR 340-090-0930 and 0940 must be expressed in terms of the functional unit in order to maximize potential for comparability.

(14) Greenhouse global warming potential (GWP) means a characterization factor describing the radiative forcing impact of one mass-based unit of a given greenhouse gas relative to that of carbon dioxide over a given period of time.

(15) Hazardous substance means chemicals that are considered potentially hazardous in consumer products in Oregon through their designation as a high priority chemical of concern to children pursuant to OAR 333-016-2020, or as a chemical pursuant to ORS 431A.345(1)-(2) or OAR 333-016-2020.

(16) Highest and best reuse means use pathways that ensure reuse of a covered product in a similar or more environmentally preferential way, as opposed to reuse that leads to environmentally worse outcomes.

(17) Information module means a compilation of data that describes a particular portion of the covered product's life cycle.

(18) Impact category means a class of environmental issues of concern, such as climate change or particulate matter, to which life cycle inventory analysis results may be assigned.

(19) Impact category indicator means a quantifiable representation of an impact category.

(20) Input means a product, material or energy flow that enters a unit process.

(21) Intentionally-added means a substance that serves an intended function in the final covered product or in the manufacturing of the covered product or part of the covered product.

(a) The use of a hazardous substance as a processing agent, mold release agent or intermediate is considered intentional introduction where the hazardous substance is present at a concentration above the practical quantification limit in the finished product. Producers may rebut this presumption by providing credible evidence to demonstrate that the product was not intentionally-added.

(b) The use of PFAS is presumed intentional if any total fluorine is present in the finished covered product. Producers may rebut this presumption by providing credible evidence to demonstrate that PFAS were not intentionally added.

(c) The use of flame retardants is presumed intentional if a hazardous substance that belongs to this chemical class is present in the finished product at a concentration above 1,000 parts per million. Producers may rebut this presumption by providing credible evidence to demonstrate that the flame retardant was not intentionally added.

(d) The use of post-consumer recycled materials as feedstock for the manufacture of new covered products, where the covered product may contain amounts of the regulated chemicals but is neither desired nor deliberate, is not considered intentional addition for the purposes of this Act.

(22) Internal normalization means that impact indicator results for the impact reduction scenario are divided by the same category of impact indicator results for the baseline scenario prior to impact reduction.

(23) International Organization for Standardization (ISO) is a non-governmental organization that develops consensus-based standards for businesses and consumers. Many ISO standards are cross-referenced in these rules and can be obtained at https://www.iso.org/standards.html.

(24) Life cycle impact assessment means a phase of a life cycle assessment aimed at understanding and evaluating the magnitude and significance of the potential environmental impacts for a product system throughout the life cycle of the product.

(25) Life cycle inventory analysis means a phase of a life cycle assessment involving the compilation and quantification of inputs and outputs for a product throughout its life cycle.

(26) Impact category means a class of environmental issues of concern, such as climate change or particulate matter, to which life cycle inventory analysis results may be assigned.

(27) Impact category indicator means a quantifiable representation of an impact category.

(28) Midpoint indicator means an environmental impact assessment method that focuses on singular environmental problems and measures impact at an intermediate stage of the cause-effect change, before the final endpoint is reached.

(29) Output means a product, material, or energy flow that leaves a unit process.

(30) PFAS means perfluoroalkyl and polyfluoroalkyl substances, a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

(31) Plastic leakage means plastic leaving the technosphere and accumulating in the natural environment, be it soil, air, or rivers and ocean.

(32) Practical quantification limit means the lowest concentration of a chemical that can be reliably measured within specified limits of precision, accuracy, representativeness, completeness and comparability during routine laboratory operating conditions.

(a) The chemical-specific Practical Quantification Limits and methods of detection in OAR 333-016-2035, Exhibit A, apply.

(b) The Practical Quantification Limit for Perfluorooctanoic acid and related substances (PFOA), a member of the PFAS class of chemicals for which no Practical Quantification Limit has yet been set in Oregon, is .001 parts per million, in alignment with Washington's Children's Safe Products Act.

(c) The Practical Quantification Limit for lead, for which no Practical Quantification Limit has yet been set in Oregon, is one part per million, in alignment with Washington's Toxic Free Cosmetics Act.

(33) Process means a set of interrelated or interacting activities that transforms inputs into outputs.

(34) Product category rule (PCR) means a set of specific rules, requirements, and guidelines for performing life cycle assessment for a particular product category.

(35) Product System means the collection of unit processes with elementary and product flows, performing one or more defined functions, and which models the life cycle of a product.

(36) Project report means a report detailing results of a life cycle evaluation of a covered product performed in accordance with OAR 340-090-0930 to 0940, containing all contents listed in OAR 340-090-0920.

(37) Refill cycle means the processes and conditions associated with use of a refillable packaging product. A refill cycle is considered complete when a consumer has emptied the packaging, obtained a new supply of the product intended to be used, and refilled the packaging with said supply.

(38) Refillable packaging product means:

(a) a product pair consisting of a refillable parent package and a refill package or packages that meets the following two conditions:

(A) The refill packaging must be conceived and designed specifically by the producer to fill the parent package at home, and

(B) The refill packaging does not perform the same function as the parent packaging and cannot be used without the parent. At least one of the following must be true to be considered to meet this condition:

(I) The refill packaging is not reclosable, which means that once opened, the product is no longer protected,

(II) The refill packaging is reclosable, but can fill the parent packaging multiple times, or

(III) An additional component present on the parent package is necessary in order to be able to use the refill.

(39) Return rate factor means a numeric value generated by dividing the total amount of a covered packaging product returned to the system by the total amount of a covered packaging product placed into commerce.

(40) Reuse cycle means the processes and conditions associated with use of a reusable packaging product. A reuse cycle is considered complete when a package or product has been emptied by the consumer, returned to a producer or third-party system, reused for its original intended purpose in its original format, and returned to the market.

(41) Reusable packaging product means a packaging product that is:

(a) Designed to be recirculated multiple times for the same or similar purpose in its original format;

(b) Supported with adequate commercial or publicly-owned infrastructure to enable the highest and best reuse;

(c) Returned to a producer or third party after each use; and

(d) Actually reused.

(42) Scenario means a collection of assumptions and information relevant to possible future events.

(43) Scenario analysis means a type of sensitivity analysis that evaluates impacts of a possible future situation and is based on specific assumptions about the future, and (when relevant) also includes the presentation of the development from the present to the future.

(44) Sensitivity analysis means a systematic procedure for estimating the effects of the choices made regarding methods and data on the outcome of a life cycle assessment.

(45) Stock keeping unit means a unique identifier, typically an eight-digit code or a scannable bar code, that is assigned by a producer to each product in the producer’s inventory.

(46) Substantial impact reduction means a 10% or more reduction of impacts resulting from an impact reduction action undertaken by a producer and measured through comparison of two

scenarios, before the producer action (e.g. the baseline scenario) and after the producer action, following the rules outlined in OAR 340-090-0930(3)(c).

(47) Substitution credits means credits granted to the product system for outputs of end-of-life treatments, such as recycling.

(48) System Boundary means a set of criteria specifying which unit processes are part of a product system.

(49) Technosphere means the part of the environment made or modified by humans, pertaining to energy and material consumption.

(50) Unit Process means the smallest element considered in life cycle inventory analysis for which input and output data are quantified.

Statutory/Other Authority: ORS 459A.944 & 459A.884
Statutes/Other Implemented: ORS 459A.944 & 459A.884
History:
DEQ 20-2024, adopt filed 11/24/2024, effective 11/24/2024

340-090-0910
Scope and Applicability

(1) OAR 340-090-0900 to 0940 are collectively referred to as the life cycle evaluation or LCE rules. The LCE rules implement ORS 459A.944 and provide standards for the evaluation and disclosure of the environmental impacts of covered products through the life cycle of the products. The LCE rules shall be used by large producers to meet the requirements of ORS 459A.944(2), as provided by Section 2 of this rule, and by producer responsibility organizations to meet the requirements of ORS 459A.884(4), as provided by Section 3 of this rule.

(2) Large producers shall do the following:

(a) Perform an evaluation, using the standards and methods of the LCE rules, of the life cycle impacts of at least one percent of the covered products that the large producer sells or distributes in or into this state.

(b) Identify the one percent of the covered products for evaluation and disclosure as follows as provided by this Subsection.

(A) A Large producer must order by annual Oregon sales volumes, measured by the number of units, all individual Stock Keeping Units that the producer sold in or distributed into the state that are covered products or that have associated packaging which is a covered product. Producers may use national data pro-rated to Oregon’s population or other approximations for the purpose of identifying the one percent of Stock Keeping Units for evaluation, as long as they conform with best available estimation methods.

(i) If a covered product is not associated with a Stock Keeping Unit, the producer shall instead represent the product using an alternative code that is associated with data on the amount of covered product sold or distributed in or into Oregon.

(ii) Stock Keeping Units produced by multiple associated producers as defined in OAR 340-090-0860(5) must be grouped together for the purpose of ordering the Stock Keeping Units by sales volumes.

(B) The evaluation required by Subsection (a) shall be performed on each of the Stock Keeping Units that make up the one percent of Stock Keeping Units with the highest sales volume from the list described in paragraph (b)(A). The evaluation must include any primary, secondary, and tertiary packaging associated with a Stock Keeping Unit, as well as the product contained or protected by the packaging if it is a covered product. Stock Keeping Units may be batched together in an evaluation, as provided by Paragraph (D).

(C) Except as described in Paragraph (D), large producers must submit individual project reports for each evaluation conducted according to the LCE rules for the covered products represented by or used to package each Stock Keeping Unit.

(D) Batch evaluations may be performed covering multiple Stock Keeping Units if the Stock Keeping Units are part of the same product line or family, such as paperboard cereal boxes of different sizes. If multiple Stock Keeping Units are included in a single batch evaluation, all Stock Keeping Units in the batch evaluation are counted toward fulfillment of the requirement for evaluation of one percent of covered products and can be submitted in a single project report. To determine batching eligibility to fulfill the requirement for evaluation of one percent of covered products, Large Producers shall work down their ordered list of Stock Keeping Units starting at the top. If the first Stock Keeping Unit cannot be batched with anything else in their portfolio of covered product Stock Keeping Units, then it must be evaluated as a single project report. The producer continues to work through the list of their top one percent of Stock Keeping Units in this fashion to determine eligible batches.

(c) Submit complete life cycle evaluations to the department and to the producer responsibility organization of which it is a member at the end of every other program year beginning with 2026.

(A) A producer may submit its life cycle evaluation 6 months after the time provided by Subsection (c) if the producer was not a large producer based on interim market share but becomes a large producer based on preliminary market share.

(B) If a producer is a large producer in multiple 2 year periods the producer must re-order its Stock Keeping Units, as provided by Subsection (b) and assess impacts of covered products for the next, not previously assessed one percent of Stock Keeping Units. Stock Keeping Units that have already been assessed may be repeated after 10 years, or earlier if all Stock Keeping Units have been assessed.

(3) Producer responsibility organizations must apply fee adjustments pursuant to ORS 459A.884(4) as provided by this Section.

(a) Producer responsibility organizations will provide a fee reduction to producers that perform a voluntary evaluation and disclosure of the life cycle impacts of covered products conducted according to the standards and methods in the LCE rules.

(A) Evaluation results must be made available on a producer responsibility organization website and submitted to the department.

(B) Within a given program year, producers may claim bonuses for up to 100 Stock Keeping Units for which a life cycle evaluation is performed and disclosed. DEQ may approve a temporary variance to this limit should the producer responsibility organization propose, through the program plan, a lower limit.

(C) An evaluation used to qualify for this bonus must be completed on or after July 1, 2025, and no earlier than one year prior to submission to the producer responsibility organization.

(b) Producer responsibility organizations will provide a fee reduction to producers that perform a voluntary or statutorily required, per ORS 459A.944(2), evaluation and disclosure of the life cycle impacts of covered products according to the standards and methods in the LCE rules and that include proof of substantial impact reduction as defined according to OAR 340-090-0900(42) and calculated according to OAR 340-090-0930(3)(c).

(A) The magnitude of the fee reduction pursuant to Subsection (b) must be larger than the magnitude of the fee reduction pursuant to Subsection (a), both in terms of the proportion of base fee adjustments and any cap placed on each available fee reduction.

(B) Evaluation results must be made available on a producer responsibility organization website and submitted to the department.

(C) A producer may claim the fee reduction pursuant to Subsection (b) only if the change resulting in reduction of life cycle impacts has been undertaken directly by the producer or its suppliers.

(D) The substantial impact reduction action examined in the evaluation must have been undertaken on or after December 1, 2024, and no earlier than two years prior to submission of the evaluation to the producer responsibility organization.

(E) A producer responsibility organization must offer larger fee reductions for larger impact reductions, by delineating up to five impact reduction tiers, each representing progressively greater impact reduction and receiving progressively larger fee reductions.

(F) An evaluation used to qualify for the fee reduction pursuant to Subsection (b) must be completed on or after July 1, 2025, and no earlier than one year prior to submission of the evaluation to the producer responsibility organization.

(G) The proportion of parent packaging used by consumers as a single-use rather than as a refillable product are not eligible and must be excluded from a fee reduction under Subsection (b) for substantial impact reduction resulting from transition from a single-use to a refillable packaging product.

(c) The fee reductions described in Subsection (a) and (b) of this Section do not preclude the producer responsibility organization offering other fee adjustments to its member producers. Any fee adjustments must be included in a program plan or plan amendment reviewed and approved by the department and incentivize the reduction of environmental and human health impacts.

(d) With respect to the fee reductions described in Subsection (a) and (b) of this Section, the producer responsibility organization may set limits in the program plan regarding the timing, submission and re-submission of both fee reductions, including limits related to the frequency of the submission of life cycle evaluations for the same Stock Keeping Units. Any limits must be included in a program plan or plan amendment reviewed and approved by the department.

Statutory/Other Authority: ORS 459A.944 & 459A.884
Statutes/Other Implemented: ORS 459A.944 & 459A.884
History:
DEQ 20-2024, adopt filed 11/24/2024, effective 11/24/2024

340-090-0920
Project Report

All life cycle evaluations under the LCE rules must be documented in a project report in accordance with this rule. This report must include the contents specified in Section 1 and conform to the general requirements in ISO 14044:2006 § 5.1 and 14044:2006 § 5.2. Two versions of the project report shall be created, one that contains all the contents described in this rule including confidential data as described in section (2) of this rule and a second public version with confidential data removed. The non-redacted project report shall be provided to DEQ and the producer responsibility organization and the public version with confidential data removed shall be made available to the public.

(1) Contents of the project report. ISO 21930:2017 § 10 shall apply to the project report. The project report shall include the following elements, taken from ISO 21930:2017 § 10.2, and as modified by this Section:

(a) General aspects, including:

(A) Commissioner of the life cycle evaluation, and internal or external practitioner of the Life cycle evaluation study;

(B) Date of report; and

(C) Statement that the study has been conducted in accordance with the requirements of the LCE rules.

(b) Goal of the study, including the reasons for carrying out the study, including its intended application and whether that includes a fee reduction pursuant to ORS 459A.884(4) and OAR 340-090-0910(3)(a) or (b).

(c) Scope of the study, including:

(A) The functional unit, as described in OAR 340-090-0930(1)(a), including:

(i) The definition and relevant technical specifications; and

(ii) The calculation approach for averaging data, including when the functional unit is defined for a batch of covered products as described in OAR 340-090-0930(1)(a), or for a group of the same products produced by different suppliers or at different production sites.

(B) The system boundary according to the modular approach, as described in OAR 340-090-0930(1)(c), including:

(i) Omissions of life cycle stages, processes or data needs;

(ii) Quantification of energy and material inputs and outputs, taking into account how plant-level data is allocated to the declared products; and

(iii) Assumptions about electricity production and other relevant background data.

(C) cut-off criteria for initial inclusion of inputs and outputs, as described in OAR 340-090-0930(1)(d), including:

(i) A description of the application of cut-off criteria and assumptions; and

(ii) A list of excluded processes.

(d) A life cycle inventory analysis, as described in OAR 340-090-0930(2), including:

(A) A qualitative and quantitative description of unit processes necessary to model the life cycle stages of the functional unit;

(B) The sources of generic or proxy data or literature used to conduct the analysis;

(C) Validation of data and discussion of data quality, as described in OAR 340-090-0930(1)(e), including:

(i) Data quality assessment; and

(ii) Treatment of missing data.

(D) Allocation principles and procedures, as described in OAR 340-090-0930(2)(c), including:

(i) Documentation and justification of allocation procedures; and

(ii) uniform application of allocation procedures.

(e) A Life cycle impact assessment, as described in OAR 340-090-0930(3), including:

(A) The life cycle impact assessment procedures, calculations and results of the assessment;

(B) The relationship of the life cycle impact assessment results to the life cycle inventory analysis results;

(C) A reference to all characterization models, characterization factors and methods used, as described in OAR 340-090-0930(3)(a);

(D) A statement that the life cycle impact assessment results are relative expressions and do not predict impacts on category endpoints, the exceedance of thresholds, safety margins or risks.

(f) Life cycle interpretation, as described in OAR 340-090-0930(4) including:

(A) The results of the interpretation;

(B) The assumptions and limitations associated with the interpretation of results, both methodology and data related;

(C) The data quality assessment; and

(D) Full transparency in terms of value-choices and expert judgements.

(g) Summary section containing specific information from the project report. The required information and format will be based on a template provided by DEQ. The summary section must be computer readable.

(h) The third-party verification.

(2) Confidential Data. A producer shall identify any information in the project report the producer believes is exempt from disclosure pursuant to ORS 192.311 to 192.478 or otherwise confidential under applicable law. Such information is not required to be included in the public report and shall not be disclosed to the extent allowed or required by ORS 192.311 to 192.478 or other applicable law. Such information may be necessary for the third-party during the verification process described in Section (4). A producer may require an appropriate nondisclosure agreement before providing such information to a third-party reviewer. To qualify for a fee reduction pursuant to ORS 459A.884(4) and OAR 340-090-0910(3) the following project report information must be publicly available:

(a) Life cycle inventory analysis results, such as, the specific volume of plastic in kilograms leaked across the life cycle of a covered product, calculated as stipulated at OAR 340-090-0930(2)(i),

(b) Impact assessment results,

(c) normalized and weighted impact scores generated for the purpose of claiming the substantial impact reduction bonus, and

(d) the presence of intentionally-added or contaminant hazardous substances.

(3) Documentation on additional environmental information. Any mandatory reporting of additional environmental information, as described in OAR 340-090-0940, shall be included in the project report. Such documentation may include:

(a) Laboratory results or tests related to material or chemical composition of covered products;

(b) Laboratory results or tests related to emissions (to air, soil or water) from covered products that occur during their use stage;

(c) Certifications or third-party environmental labels; and

(d) Sourcing practices.

(4) Third-Party verification and validity of Life Cycle Evaluation. A qualified independent verifier shall review and certify all life cycle evaluations of covered products for compliance with the LCE rules.

(a) A qualified, independent verifier shall have knowledge of and proficiency in life cycle assessment methodology, practice, and standards (ISO 14040:2006 and ISO 14044:2006), as well as appropriate scientific and technical proficiencies relevant to covered products evaluated. Qualifications shall be determined using the criteria and scoring system described in section 8.3.1 of Annex I of EU 2021/2279.

(A) An independent verifier is a verifier not currently employed by the producer that commissioned the study, the practitioner that accomplished the study, or by a producer associated with the commissioning producer as defined at OAR 340-090-0860(6); not having been involved in defining the scope or carrying out any of the work to conduct the life cycle evaluation; and not having any vested financial, political or other interest in the study outcome. Third-party verifiers shall fill out and submit Annex B of ISO 14071 as an appendix to the verification report in order to self-attest to their independent status.

(b) The review and verification shall be conducted pursuant to and in accordance with the critical review process described in ISO/TS 14071:2014. Additionally, the third-party review and verification shall adhere to section 8.4.1 of Annex I of EU 2021/2279.

(c) After review and verification, a critical review report and critical review statement shall be produced by the third-party and appended to the project reports, all of which must then be submitted to the department, and made publicly available by the producer responsibility organization.

(d) A project report is valid for 10 years, if the underlying data have not changed significantly such that the results of the assessment no longer represent the current impact of the covered product.

(e) Information in addition to the project report may be required by a third-party verifier to determine compliance with the LCE rules.

Statutory/Other Authority: ORS 459A.944 & 459A.884
Statutes/Other Implemented: ORS 459A.944 & 459A.884
History:
DEQ 20-2024, adopt filed 11/24/2024, effective 11/24/2024

340-090-0930
Core Product Category Rule

(1) Methodological Framework. This rule provides the general considerations and technical parameters required for the life cycle evaluation of covered products required of large producers by ORS 459A.944, and that may be undertaken voluntarily by a producer seeking a fee adjustment pursuant to OAR 340-090-0910(3). All life cycle evaluations conducted under these rules must be based on attributional life cycle assessment methods as defined in OAR 340-090-0900(2).

(a) Functional Unit. All inputs and outputs of a life cycle inventory must be expressed in terms of a functional unit defined in a manner consistent with ISO14040:2006 §5.2.2 and ISO 14044:2006 §4.2.3.2. For covered products that contain or hold something the functional unit shall be defined as 1 cubic meter of capacity. For covered products that cover or wrap something the functional unit shall be set as 1 square meter of coverage. For covered products that perform some function other than containing or covering something or for instances where product redesign (e.g. change in concentration) influences the ratio of covered product to function, producers should seek DEQ feedback prior to finalizing the choice of functional unit.

(b) System Boundary. The system boundary for life cycle evaluations of covered products shall be based on a cradle-to-grave system boundary, as provided in paragraphs (A) to (E).

(A) Unit processes or activities that are included in the system boundary are provided in Subsection (c) and generally include the following:

(i) Raw material extraction, processing, and production;

(ii) Transportation and fuel usage to obtain raw material at the factory;

(iii) Finished manufacturing of covered products;

(iv) Transportation and fuel usage to distribute covered products, including customer transport to place of purchase;

(v) Local route transport and distribution for collection materials at end of life; and

(vi) Waste recovery and processing (at production and end of life) including disposal, incineration, or recycling.

(B) Unit processes or activities that are not included in the system boundary:

(i) Use related activities or emissions (e.g., electricity consumption, washing, sterilization, refrigeration), except as provided in Subsection (b)(C);

(ii) Maintenance of facilities and capital equipment;

(iii) Installation of facilities and capital equipment;

(iv) Manufacturing of facilities and capital equipment;

(v) Personnel transportation; and

(vi) Human labor and employee commuting.

(C) Notwithstanding Subparagraph (B)(i), if a covered product is either a reusable packaging product or a refillable packaging product the system boundary shall include the use related activities associated with recovering, washing, sterilizing, and redistributing reusable packaging products.

(D) The system boundary shall include all processes and production steps required to fulfill the defined functional unit of the covered products under evaluation consistent with the requirements of ISO 14044:2006 §4.2.3.3.

(E) If a covered product will use recovered materials, fuels, or energy then those inputs must be included in the assessment in such a way as to avoid double counting or undercounting of burdens, as described in ISO 21930:2017 §7.1.6.

(c) Information Modules. Life cycle evaluations shall be divided into information modules A, B, C and D, based on the modularity principle introduced in ISO14025:2006 § 5.4 and consistent with the structure described in ISO21930:2017 § 7.1.7., as provided by this Section. Information modules pertain to the materials, parts, and processes associated with the life cycle of a covered product and represent, individually or when combined, the whole of the life cycle of a covered product.

(A) Information Module A shall be included in all evaluations of covered products and includes the production stage of the life cycle for covered products, including:

(i) A1, raw material extraction and processing, secondary material inputs, energy generation (electricity or thermal), and any waste management for any production scrap or materials.

(ii) A2, transport of raw materials to the production facility along with any internal transport at the production facility itself.

(iii) A3, manufacturing, including the production of ancillaries and co-products; energy generation (electricity or thermal) needed for manufacturing, combustion emissions associated with fuels used in the manufacturing process, manufacturing of any packaging (additional to the covered products themselves) associated with secondary or tertiary packaging needs, transport associated with ancillaries, transport associated with secondary or tertiary packaging, and any waste management for any production scrap or materials.

(iv) A4, transport from factory to place of purchase and customer transport to place of purchase.

(B) Information Module B includes the use stage of the life cycle for covered products. This module is only required for reusable packaging products, as defined by OAR 340-090-0900(37) and includes evaluation of all the relevant use phase activities related to the collection, cleaning, and redistribution of reusable packaging products, as provided by Subparagraph (B)(i)-(iii) of this Subsection. Evaluation of reusable packaging products shall include, at a minimum:

(i) Transportation for return, including mode of transportation and distance transported;

(ii) Washing and sterilization process including any energy, water, or ancillary inputs;

(iii) Transportation for redistribution, including mode of transportation and distance transported;

(C) Information Module C shall be included in all life cycle assessments and includes the end-of-life state of a covered product. This stage begins when a covered products finishes its useful life and does not provide any further functionality.

(i) Stages of information module C include:

(I) C2, transport of waste to end of life processing (recovery, recycling, or disposal);

(II) C3, waste processing of covered products in preparation for recycling or recovery, including, sortation, beneficiation, or other processing performed at a MRF or transfer station; and

(III) C4, disposal or recovery activities.

(ii) Since covered products reaching the end-of-life stage can be managed in different ways, a representative average scenario based on a typical end-of-life shall be calculated. The end-of-life composition of dispositions for a given covered product shall reflect an average, based on a regional or national mix, of recovery and disposal.

(iii) If an end-of-life processes results in secondary materials through recycling, energy recovery or other methods, any benefits associated with the secondary materials shall be reported in information module D, pursuant to Subsection (d).

(D) Information Module D includes benefits or credits beyond the system boundary. Unlike Modules A through C, Module D is not a life cycle stage. It represents any impacts (either benefits or loads) that occur outside of the system boundary for the covered product. Any benefits specifically associated with reuse, recycling, or energy recovery are quantified and reported in Module D, as described in ISO21930:2017 § 7.1.7.6.

(d) Cut off criteria. Cut-off criteria for evaluation of covered products shall follow the guidelines of ISO 21930:2017 § 7.1.8 and ISO14044:2006 § 4.2.3.3.3. Any specific criteria used for the inclusion or exclusion of inputs and outputs must be justified and documented. All available energy and material flows associated with the covered product in the underlying life cycle inventory must be included. In cases where no matching life cycle inventories are available to represent a flow, proxy data may be applied using conservative assumptions regarding environmental impacts.

(A) The cut-off criteria for including or excluding materials, energy and emissions data of the study are as follows:

(i) Mass – If a flow (input or output) is less than 1% of the cumulative mass of the model it may be excluded, providing its environmental relevance, as defined in Subsection (B) is not a concern.

(ii) Energy – If a flow (input or output) is less than 1% of the cumulative energy of the model it may be excluded, provided its environmental relevance is not a concern.

(B) For purposes of this section a flow (input or output) has environmental relevance based on its contribution to an environmental impact exceeding the cut-off criteria, defined as individually contributing more than 1% of the total environmental impact of an impact category. In such cases these flows must be included (e.g. cannot be excluded) in the life cycle inventory.

(C) The sum of the excluded material flows (inputs and outputs) must not exceed 5% of mass, energy or environmental relevance.

(e) Selection of data and data quality requirements. The data used to create the life cycle inventory shall be as precise, complete, consistent, and representative, as follows:

(A) Measured data is preferred for use, followed by calculated data, and finally data based on estimates.

(B) Measured primary data must be of the highest precision practicable, the precision of calculated and estimated data is expected to be lower than measured.

(C) Data must be complete for inputs and outputs for each unit process and the completeness of the combined unit processes that make up the life cycle inventory. Cut-off criteria apply.

(D) Modeling choices and data sources must be consistent and ensure that differences in results occur due to differences between product systems, and not because of inconsistencies in modeling choices, data sources, emission factors, or other considerations.

(E) To be representative data must match the geographical, temporal, and technological requirements defined in the goal and scope of the project report described in OAR 340-090-0920(1)(b) and (1)(c).

(F) An evaluation of data quality in terms of these requirements in Paragraphs (A) to (E) shall be provided in the project report described in OAR 340-090-0920. Table 3 of ISO 21930:2017 provides guidance on the application of generic and specific data required by module and should be used to inform the selection of data developed for a covered product under these rules. Additional guidance regarding data quality requirements can also be found in ISO 14044:2006 § 4.2.3.6 and ISO 21930:2017 § 7.1.9.

(G) These data quality requirements apply to all data incorporated into the life cycle inventory.

(f) International System of Units measurements shall be used for all life cycle evaluation values. Results of life cycle impact assessments described in OAR 340-090-0930(3) shall use the default units associated with each impact category as described in ISO 21930:2017 § 7.1.10.

(2) Life Cycle Inventory Analysis. Life cycle inventory analysis shall be performed as provided by this rule.

(a) Data Collection. Data must be collected for all the required information modules described in OAR 340-090-0930(1)(c) within the system boundary, described in OAR 340-090-0930(1)(b) for the covered product under study. Data collection shall follow the guidelines in ISO 14044:2006 § 4.3.2.

(b) Calculation Procedures. Calculation procedures employed for the life cycle evaluation of a covered product shall follow the guidance in ISO 14044:2006 § 4.3.3. The calculation shall be applied consistently and documented in the final report, including disclosure of any assumptions.

(c) Allocation. For purposes of this Section allocation is the partitioning of the input or output flows of a process or a product system between the product system under study and one or more other product systems.

(A) Where possible, allocation should be avoided per ISO 14044:2006 § 4.3.4.2. When required, any allocation for materials and energy carriers shall follow the steps and guidelines laid out in ISO14044:2006 § 4.3.4.2 and ISO21930:2017 § 7.2.3.

(B) When allocation is required within any stage of the life cycle for covered products, disclosure of the selected allocation method is required. No allocation may result in double-counting of environment benefits (e.g. credits). The guidelines of ISO14044:2006 § 4.3.4.2 shall be used when allocation is performed and in the specific case of allocation for reuse or recycling, the procedures of ISO14044:2006 § 4.3.4.3.

(C) Any recovery processes should account for losses in quality and quantity of the material throughout the process. Written justification for changes in the quality of the material factors applied when allocating benefits of recycling must also be provided, as many recycling processes can yield lower-quality materials compared with virgin materials. Such quality losses should be reflected in appropriate substitution credits for recycling.

(D) Energy recovery. If materials are incinerated with associated energy recovery, the unit processes and activities for incineration must account for waste composition and heating value, as well as for regional efficiencies and heat-to-power output ratios. Any credits (e.g. environmental benefits), in the form of energy generation from incineration processes, should substitute for an appropriate regional electricity grid mix and thermal energy inventory. These credits should be reported in Module D, as described in OAR 340-090-0930(1)(c)(D).

(E) Landfilling. If materials are sent to landfills, specific unit processes and activities shall be used that account for waste composition, regional leakage rates (due to technology and climate zone), landfill gas capture and utilization. Any recovery of landfill gas output that substitutes for primary production of natural gas shall be granted as a credit. These credits should be reported in Module D, as described in OAR 340-090-0930(1)(c)(D).

(F) Composting. If materials are sent to composting facilities, the unit processes and activities for composting must account for waste composition, composting methodology and crediting (via substitution) for the outputs (e.g. finished compost) of the composting process that substitute for primary production of other materials (e.g. synthetic fertilizers). These credits should be reported in Module D, as described in OAR 340-090-0930(1)(c)(D).

(G) Material Substitution Credits. A credit described in this subsection is granted to the system for the outputs of end-of-life treatments when the material is recycled. The outputs from recycling (e.g. recycled materials) that substitute for primary production of like materials shall be granted as a credit. These credits should be reported in Module D, as described in OAR 340-090-0930(1)(c)(D).

(d) Accounting of biogenic carbon during the life cycle.

(A) The inventory shall include biogenic carbon flows (inputs and outputs) of covered products across required information modules. Reporting of biogenic carbon flows shall be consistent with the guidelines of ISO21930:2017 § 7.2.7. When calculating Global Warming Potentials (GWP) for impact assessment as described in OAR 340-090-0930(3), biogenic carbon shall be accounted for as follows:

(i) Inputs or sequestration of biogenic carbon shall be reported as a negative inventory flow, and

(ii) Outputs or emissions of biogenic carbon shall be reported as a positive inventory flow.

(B) Producers must report GWP both excluding and including biogenic carbon. To obtain the fee reduction pursuant to OAR 340-090-0910(3)(b), a producer must use GWP excluding biogenic carbon in the single score impact profile calculation described in OAR 340-090-0930(3)(c).

(e) Reusable packaging product. When developing a life cycle inventory for evaluation of a reusable packaging product, defined in OAR 340-090-0900(41), the following shall apply.

(A) The following parameters shall be included in the life cycle inventory and disclosed under information module B pursuant to OAR 340-090-0930(1)(c)(B) in the project report:

(i) A return rate factor to account for breakage, losses, or yield across each reuse cycle; and

(ii) the expected number of reuse cycles, as defined in OAR 340-090-0900(40) to be examined through scenario analysis described in OAR 340-090-0930(4).

(B) If a producer transitions a covered product from single-use to reusable and seeks the fee adjustment pursuant to ORS 459A.884(4) and OAR 340-090-0910(3)(b), projections of the information required in Subparagraph (A)(i)-(ii) of this Subsection, rather than actual data, may be used for evaluation for the first three years. If actual data are available during the initial three year period, they must be reported alongside the projections used in inventory analysis and impact assessment. Thereafter, a producer shall use actual data to perform the evaluation. Actual data must be obtained through real-world tracking of reusable packaging assets across the entire state for each individual SKU and shall be consistent with applicable global and national standards.

(C) A producer must calculate a break-even point in an assessment focused on a reusable packaging product, and after the three-year period described in Paragraph (B) ends, the actual number of reuses must be compared with and exceed the break-even point to qualify for the fee adjustment pursuant to ORS 459A.884(4) and OAR 340-090-0910(3)(b). The break-even point shall be calculated for the normalized and weighted single score as provided by OAR 340-090-0930(3)(c).

(D) Return rate factors shall be calculated according to the methods and guidelines of the Product Environmental Footprint method in section 4.4.9 of Annex I of EU 2021/2279 (European Commission Recommendation of 15 December 2021 on the use of Environmental Footprint methods to measure and communicate the life cycle environmental performance of products and organizations), with the following exceptions: return rates (4.4.9.3) can be based on assumptions or projections (option ‘b’ of 4.4.9.3) in the initial three year period described in

Paragraph (B) of this section, but shall be based on supply chain specific data (option ‘a’ of 4.4.9.3) after the three year period.

(f) Refillable packaging product. When developing a life cycle inventory for evaluation of a refillable packaging product, defined in OAR 340-090-0900(38), the following shall apply:

(A) The following parameters shall be included in the life cycle inventory and disclosed under information module B pursuant to OAR 340-090-0930(1)(c)(B) in the project report:

(i) A refill rate factor to account for losses or yield across each reuse cycle. The refill rate factor must be applied to scale the functional unit by the percent of demand fulfilled by the parent and by the refill packaging – i.e., for a given refill rate factor of x, the volume of parent packaging must be scaled by x and the volume of child packaging must be scaled by 1-x; and

(ii) the expected number of refill cycles, as defined in OAR 340-090-0900(37) to be examined through scenario analysis described in OAR 340-090-0930(4).

(B) A producer must calculate a break-even point in an assessment focused on a refillable packaging product, The break-even point shall be calculated for the normalized and weighted single score as provided by OAR 340-090-0930(3)(c).

(g) Refill rate factors shall be calculated as follows:

(A) Divide the volumetric capacity of the refill packaging by the maximum volumetric capacity of the parent packaging.

(B) Multiply the output of step (A) by the total units of refills sold in a given year.

(C) Divide the output of step (B) by the total units of packaging placed on the market in that same year, which is the sum of the parent packaging units sold and the volumetrically-adjusted refill units sold, i.e., the number of refill units sold multiplied by the output of step (A).

(h) Hazardous waste indicators. Producers shall track and report, in addition to all other required inventory data, flows of the following wastes as part of the life cycle evaluation of covered products:

(A) Hazardous waste, as defined in ORS 466.005(7) that is disposed of within any life cycle stage of the covered product, and

(B) Non-hazardous waste that is disposed of in the covered product life cycle.

(i) Plastic leakage inventory. Producers shall quantify, in addition to all other required inventory data, the flow(s) of plastic leakage across the life cycle of covered products. This plastic leakage assessment aims at measuring the plastic leaving the technosphere and accumulating in the natural environment (be it soil, air, or rivers and ocean) and shall be based on the methodologies of the Plastic Footprint Network (PFN) V1 Nov. 2023. The methodology provides details on flow nomenclature and units of measure to track plastic leakage, as well as providing regionalized averages when primary data cannot be obtained by the producer. Producers shall include application of the specific modules of Macroplastic: Packaging and Microplastic: Tire

particles modules of Plastic Footprint Network V1 2023 when conducting this inventory analysis. The Waste From Export module can additionally be applied on a voluntary basis if a producer has Oregon-specific data on the waste export destinations and rates for their covered products. The data quality requirements of OAR 340-090-0930(1)(e) apply to this Section and specifically data related to plastic leakage shall follow the data governance guidance from the Plastic Footprint Network methodology V1 Nov. 2023.

(j) Methane leakage. Producers shall quantify methane leakage, which may occur at various points along the oil and gas supply chain, within the life cycle inventory for covered products, including methane leakage that happens at wellhead, pipeline, transport, refinery, and production facilities. Producers shall quantify methane leakage by using published sources that reflect the latest available information and understanding of the issue. Known life cycle inventory databases that incorporate methane leakage are Sphera's Managed LCA Content (version 2024 or newer) and Ecoinvent (version 3.10 or newer). The data quality requirements of OAR 340-090-0930(1)(e) shall apply to this Section.

(3) Life Cycle Impact Assessments. Upon completion of the life cycle inventory pursuant to OAR 340-090-0930(2), a life cycle impact assessment shall be conducted according to the requirements of this rule.

(a) Life cycle impact assessments shall, unless otherwise provided in this rule, follow the guidelines for classification and characterization of emissions described in ISO 14044:2006 § 4.4 and follow the specific methods of the Product Environmental Footprint method, as described in Section 5 of Annex I of EU 2021/2279, European Commission Recommendation of 15 December 2021 on the use of Environmental Footprint methods to measure and communicate the life cycle environmental performance of products and organizations.

(b) Life cycle impact indicators. A producer must calculate and disclose life cycle impact assessment indicators provided by Paragraph (A) to (P) of this Subsection for project reports submitted to comply with ORS 459A.944(2) or for the fee reduction described in OAR 340-090-0910(3)(a), and Paragraph (A) to (R) of this Subsection for the fee reduction described in OAR 340-090-0910(3)(b). Life cycle impact indicators are:

(A) Climate Change (PEFCR EF 3.1, kg CO2 eq.)

(B) Ozone depletion (PEFCR EF 3.1, kg CFC-11 eq.)

(C) Human toxicity, cancer (PEFCR EF 3.1, CTUh)

(D) Human toxicity, non-cancer (PEFCR EF 3.1, CTUh)

(E) Particulate matter (PEFCR EF 3.1, disease incidences)

(F) Ionizing radiation, human health (PEFCR EF 3.1, kBq U-235 eq.)

(G) Photochemical ozone formation, human health (PEFCR EF 3.1, kg NMVOC eq.)

(H) Acidification (PEFCR EF 3.1, mol H+ eq.)

(I) Eutrophication, terrestrial (PEFCR EF 3.1, mol N eq.)

(J) Eutrophication, freshwater (PEFCR EF 3.1, kg P eq.)

(K) Eutrophication, marine (PEFCR EF 3.1, kg N eq.)

(L) Ecotoxicity, freshwater (PEFCR EF 3.1, CTUe)

(M) Land use (PEFCR EF 3.1, pt)

(N) Water use (PEFCR EF 3.1, m3 water eq)

(O) Resource use, minerals and metals (PEFCR EF 3.1, kg Sb eq)

(P) Resource use, fossils (PEFCR EF 3.1, MJ)

(Q) Plastic physical impacts on aquatic biota (MariLCA, PAF m3 day)

(R) Plastics – other impacts (leakage inventory value) (DEQ, kg)

(S) The impacts for the indicators in Paragraphs (A) to (P) must be calculated and disclosed as provided by Product Environmental Footprint method, Section 3.2.3, Table 2, of Annex I of EU 2021/2279 (European Commission Recommendation of 15 December 2021 on the use of Environmental Footprint methods to measure and communicate the life cycle environmental performance of products and organisations) and characterization factors in ENVIRONMENTAL FOOTPRINT REFERENCE PACKAGE 3.1: LAST UPDATE JULY 2022 apply to each of these indicators when performing impact assessment.

(T) The impact for the indicator in Paragraph (Q) must be calculated and disclosed using the characterization factors published in Louvet, J., Quik, J.T.K. and Boulay, A.M. 2026. Regionalized characterization factors for microplastic emissions in life cycle assessment considering multimedia fate modelling. Journal of Cleaner Production. 538:147217.

(U) The impact indicator in Paragraph (R) is for impacts of plastic other than physical impacts on aquatic biota. No characterization factors will be applied to the leakage flows reported for this indicator and the producer shall directly normalize and weight the leakage amount following the approach in Subsection (c)(A) to (B) of this Section.

(c) Single score impact profile. To obtain a fee reduction pursuant to ORS 459A.884(4) and OAR 340-090-0910(3)(b), a producer's impact assessment results must be normalized, weighted, and aggregated into a single numeric value using weighting factors provided in Table A. Normalization, weighting, and aggregating impacts into a single numeric value is not required for the fee reduction described in OAR 340-090-0910(3)(a). This single score impact profile must be calculated for two scenarios – the covered product before and after an impact reduction action undertaken by the producer. These scenarios shall be based on a set of comparable conditions and comport with the requirements of ISO 14044:2006 § 4.2.3.7 related to comparison between systems.

(A) The environment impact indicators for Human Toxicity - Cancer, Human Toxicity – Non-Cancer, and Ecotoxicity - Freshwater, provided by Subsection (b) of this Section shall be excluded from the normalization, weighting, and aggregating of impact described in this Subsection. To obtain a fee reduction pursuant to OAR 340-090-0910(3)(b), these indicators must be reported separately from the single score calculation. If a producer action results in an increase in environmental impact of 1000 times or greater for human toxicity cancer and human toxicity non-cancer or 100 time or greater for freshwater ecotoxicity then no fee reduction shall be granted.

(B) Normalization of impact category indicator results shall be based on internal normalization. For the purposes of these rules, internal normalization means that impact indicator results for the impact reduction scenario are divided by the same category of impact indicator results for the baseline scenario prior to impact reduction. The resultant unitless value must then be multiplied by the final weighting factors provided in Table A. This process must be performed for each environmental impact category indicator result separately. Once normalized and weighted, the results shall be summed across all impact category indicators to arrive at the single score. This single score shall form the basis to evaluate substantial impact reductions and to assess any fee reductions pursuant to OAR 340-090-0910(3)(b). A score of 90 or lower represents 10% or more impact reduction, and as such qualifies as substantial impact reduction. Guidance on the process of normalization found in ISO 14044:2006 § 4.4.3.2 shall apply.

(d) Evaluation of impact reduction, as described above in OAR 340-090-0910(3)(c)(B), shall be based on a set of comparable scope and boundary conditions consistent with the guidelines provided in Section 4.2.3.7 of ISO 14044:2006 related to comparisons between systems.

(4) Interpretation. A producer must interpret the results of a life cycle evaluation under OAR 340-090-0930(1)-(3) as described in ISO 14044:2006 § 4.5 and this rule.

(a) Interpretation of the results of an evaluation under the LCE rules shall establish confidence in the accuracy and precision of the outputs. Interpretation includes checks on the overall completeness of the life cycle inventory and impact assessment, evaluation of the consistency of the project report with the requirements of the LCE rules and testing of the sensitivity of key elements of the evaluation.

[Note - See ISO 14044:2006, Annex B for examples of life cycle interpretation.]

(b) Producers shall perform a sensitivity analysis on the underlying electricity grid mixture and the recycling allocation methodology. A producer may perform a sensitivity analysis on other variables. The purpose of a sensitivity analysis is to check for key data, parameters, or methodological choices in the life cycle evaluation of covered products. This requirement provides additional quantitative information about the potential variability of the evaluation results. Sensitivity analysis shall disclose the range, minimum and maximum, and variance across all required impact categories and indictors in the project report.

(c) For modelling the electricity grid a producer must use the guidance and methodologies provided by the Product Environmental Footprint method in Section 4.4.2 of Annex I of EU 2021/2279 (European Commission Recommendation of 15 December 2021 on the use of Environmental Footprint methods to measure and communicate the life cycle environmental performance of products and organizations).

(d) A producer may use opportunities for impact reduction identified by the sensitivity analysis to apply for the substantial impact reduction bonus pursuant to OAR 340-090-0910(3)(b).

(e) If a producer applies for the substantial impact reduction bonus pursuant to OAR 340-090-0910(3)(b) specifically for a reusable packaging product, additional sensitivity analysis must be performed. Based on the parameters described in OAR 340-090-930(2)(e)(A), a scenario analysis, which means a form of sensitivity analysis wherein multiple parameters are varied at once, shall be performed for three scenarios. A best, expected, and worst-case scenario shall be evaluated and disclosed, wherein the return rate factor and number of reuse cycles are varied accordingly.

NOTE: View a PDF of the Table of Weighting Factors by clicking on the link below.

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

Statutory/Other Authority: ORS 459A.944 & 459A.884
Statutes/Other Implemented: ORS 459A.944 & 459A.884
History:
DEQ 20-2024, adopt filed 11/24/2024, effective 11/24/2024

State of Oregon Department of Environmental Quality

OAR 340-090-0930

Table of Weighting Factors

Table A

Table of Weighting Factors

Values in the Final Weighting column of this Table shall be applied to the normalized impact assessment results for each of the fifteen impact categories included in derivation of the single-score impact profile as described in OAR 340-090-0930(3)(c)(B).

IMPACT CATEGORY INDICATOR	SERIOUSNESS WEIGHTING	ROBUSTNESS FACTORS	INTERMEDIATE COEFFICIENTS	FINAL WEIGHTING
	(A)	(B)	C=A*B	C Scaled to 100
Climate change	14.41	0.87	12.54	20.97
Water use	10.88	0.47	5.11	8.55
Land use	10.16	0.47	4.78	7.99
Resources use, fossils	8.36	0.6	5.02	8.39
Resource use, minerals and metals	7.58	0.6	4.55	7.61
Ionizing radiation, human health	6.47	0.47	3.04	5.09
Ozone depletion	6.33	0.6	3.80	6.35
Particulate matter	6.2	0.87	5.39	9.02
Plastic physical impact on aquatic biota	5.88	0.3	1.76	2.95
Acidification	5.61	0.67	3.76	6.29
Photochemical ozone formation, HH	5.38	0.53	2.85	4.77
Eutrophication, freshwater	3.55	0.47	1.67	2.79
Eutrophication, terrestrial	3.3	0.67	2.21	3.70
Eutrophication, marine	3.29	0.53	1.74	2.92
Plastic – other impacts (leakage inventory value)	2.61	0.60	1.57	2.62

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.

(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:

(A) Scrap metal recycling facilities;

(B) Scrap automotive or appliance recycling facilities;

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

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

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

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

(G) Recycling depots;

(H) Recycling reload facilities; or

(I) Limited sort facilities as defined by rule by the Environmental Quality Commission

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

(26) "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.

(27) "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.

(28) "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.

(29) "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.

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

(31) "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.

(32) "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.

(33) "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.

(34) "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.

(35) "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.

(36) "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.

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

(38) "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.

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

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

(41) "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), commingled recycling processing facilities, limited sort facilities, 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.

(42) "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.

(43) “Effectively composted” Effectively composted is a material and facility-specific concept and means a material, allowed by law and accepted for composting at a composting facility, that, when composted at the facility:

(a) Contributes to the beneficial soil properties of the final compost; and

(b) Leaves an appropriate amount and type of biological, chemical or physical residue that does not harm the environment or public health when the compost is used properly at agronomic application rates or other appropriate uses.

(44) "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.

(45) "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.

(46) “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.

(47) "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, 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.

(48) "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.

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

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

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

(52) "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.

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

(54) "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.

(55) "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.

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

(57) "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.

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

(59) "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.

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

(61) "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.

(62) "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.

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

(64) "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.

(65) "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.

(66) “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) Receives source separated commingled recyclable material that is collected commingled from a collection program providing the opportunity to recycle (ORS 459A.863(3)(a)(A)); and

(B) Does not meet conditions (B)-(D) under OAR 340-096-0300(2)(a); and

(C) Meets the following requirements:

(i) Markets removed materials to responsible end markets, meeting the requirements of OAR 340-096-0310;

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

(iii) Accurately reports to DEQ the final end markets of removed materials, in accordance with the rules described under OAR 340-096-0310(2); and

(iv) Sends remaining materials to a commingled recycling processing facility that meets the requirements under ORS 459A.905(2)(a)

(v) Obtains a disposal site permit from DEQ.

(67) "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.

(68) "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.

(69) "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.

(70) "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.

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

(72) "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.

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

(74) "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.

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

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

(77) “Passenger Tire” means a tire with less than an 18-inch rim diameter.

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

(79) "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.

(80) "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.

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

(82) "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.

(83) "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.

(84) "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.

(85) "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.

(86) "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.

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

(88) "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.

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

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

(91) “Retreadable Casing” means a waste tire suitable for retreading.

(92) "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.

(93) "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.

(94) "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.

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

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

(97) "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.

(98) "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.

(99) "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.

(100) "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.

(101) "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.

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

(103) "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.

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

(105) “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.

(106) “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.

(107) “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.

(108) “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.

(109) “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.

(110) "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.

(111) "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.

(112) "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.

(113) “Truck Tire” means a tire with a rim diameter between 18 and 24.5 inches.

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

(115) "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.

(116) "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.

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

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

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

(120) "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.

(121) "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.

(122) "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.

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

(124) “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.

(125) "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 20-2024, amend filed 11/24/2024, effective 11/24/2024
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

(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 340-096-0320, “Limited Sort Facilities.”

(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;

(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 - 459.760
Statutes/Other Implemented: ORS 459.205, 459.215 & 459.225
History:
DEQ 20-2024, amend filed 11/24/2024, effective 11/24/2024
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 permit under 340-093-0070.

(o) Renewal of a limited sort facility permit 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 20-2024, amend filed 11/24/2024, effective 11/24/2024
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 disposal site permittees shall ensure that a place for collecting source separated recyclable material identified in OAR 340-090-0630(2) is provided for every person whose solid waste enters the disposal site.

(a) 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.

(b) Permittees may provide a place for collecting other materials for composting, material recovery or recycling, including materials identified under OAR 340-090-0630(3).

(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) Received approval from 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 wasteshed. 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 20-2024, amend filed 11/24/2024, effective 11/24/2024
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

340-096-0040
Transfer Stations and Material Recovery Facilities

(1) Applicability. This rule applies to all transfer stations and material recovery facilities (except composting facilities). Such facilities are disposal sites as defined by ORS Chapter 459, and are also subject to the requirements of OAR chapter 340, divisions 93, 95 and 97 as applicable.

(2) Plans and Specifications. Plans and specifications for a fixed or permanent transfer station or material recovery 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.

(3) Design and Construction:

(a) Wastewater or Leachate Discharges. There shall be no discharge of wastewater or leachate to public waters except in accordance with a permit from the Department, issued under ORS 468B.050;

(b) Access Roads. All weather roads shall 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;

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

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

(e) Fences. Access to the site shall be controlled by means of a complete perimeter fence and gates which may be locked or equivalent approved in writing by the Department;

(f) Sewage Disposal. Sanitary waste disposal shall be accomplished in a manner approved by the Department or state or local health agency having jurisdiction;

(g) Truck Washing Facilities. Truck washing areas, if provided, shall be hard surfaced and all wash waters shall be conveyed to a catch basin, drainage and disposal system approved by the Department or state or local health agency having jurisdiction.

(4) Operations:

(a) Storage:

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

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

(b) Salvage:

(A) A permittee may conduct or allow the recovery of materials such as metal, paper and glass from the disposal site only when such recovery is conducted in a planned and controlled manner approved by the Department in the facility's operations plan;

(B) Salvaging shall be controlled so as to not interfere with optimum disposal operation and to not create unsightly conditions or vector harborage;

(C) All salvaged material shall be stored in a building or enclosure until it is removed from the disposal site in accordance with a recycling program authorized in the operations plan.

(c) Nuisance Conditions:

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

(B) Dust, malodors and noise shall 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 and insect control measures shall be provided, sufficient to prevent vector production and sustenance. Any other conditions which may result in transmission of disease to man and animals shall be controlled;

(e) Records. The Department may require such records and reports as it considers are reasonably necessary to ensure compliance with conditions of a permit or OAR Chapter 340, Divisions 93 through 97. 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 & 468.020
Statutes/Other Implemented: ORS 459.005, 459.015 & 459.205
History:
DEQ 7-2013, f. & cert. ef. 8-29-13
DEQ 27-1998, f. & cert. ef. 11-13-98
DEQ 10-1994, f. & cert. ef. 5-4-94
DEQ 5-1993, f. & cert. ef. 3-10-93, Renumbered from 340-061-0065
DEQ 41, f. 4-5-72, ef. 4-15-72

340-096-0060
Special Rules Pertaining to Composting: Applicability

(1) No person may construct or operate a composting facility except as provided in this rule.

(2) All composting facilities must comply with 340-096-0070: Performance Standards.

(3) All composting facilities, except those composting facilities exempt under (3)(a) of this rule, must comply with OAR 340-096-0080: Screening.

(a) A facility with composting activities limited to one or more of the following is exempt from the requirements of OAR 340-096-0080: Screening, 340-096-0090: Operations Plan Approval, 340-096-100: Registration, and 340-096-0110: Composting Permit, unless the department determines the composting facility may adversely affect human health or the environment:

(A) A composting facility composting less than 100 tons of Type 1 feedstock, Type 2 feedstock, or both during any calendar year;

(B) A composting facility composting less than 20 tons of Type 3 feedstock during any calendar year;

(C) A composting facility composting less than 40 tons of Type 3 feedstock in any calendar year when conducting in-vessel composting in containers designed to prohibit vector attraction and prevent nuisance and odor generation;

(D) A composting facility that produces silage on a farm for animal feed;

(E) A home composting facility; and

(F) A composting facility that is being operated in conjunction with a Confined Animal Feeding Operation permitted by the Oregon Department of Agriculture that is in compliance with a composting facility management plan approved by the Oregon Department of Agriculture that meets the requirements of OAR 340-096-0090 and for which the Oregon Department of Agriculture is providing oversight under an agreement with the department. The Oregon Department of Agriculture may require that a facility that qualifies for a department exemption under this paragraph comply with OAR 340-096-0080: Screening.

(4) All composting facilities that are determined by the department to present more than a low risk to human health or the environment under OAR 340-096-0080(3)(b): Screening, except those facilities that are exempt under (3)(a) of this rule, must comply with OAR 340-096-0090: Operations Plan Approval and OAR 340-096-0110: Composting Permit.

(5) Any composting facility in operation before September 14, 2009 that submitted materials required by OAR 340-096-0080: Screening, by March 15, 2010 may continue in operation pending a determination by the department under OAR 340-096-0080: Screening and issuance by the department of a Registration under OAR 340-096-0100: Registration or a Composting Permit under OAR 340-096-0110: Composting Permit. Any anaerobic digestion facility possessing a solid waste treatment facility permit on August 22, 2013 may either continue to operate under the solid waste treatment facility permit, or may apply for a composting facility permit or registration under OAR 340-096-0080(3)(b): Screening.

(6) Any person proposing to begin operation of a new composting facility or to substantially modify an existing facility, where such a facility is not exempt under section (3) of this rule, must comply with OAR 340-096-0080: Screening and provide to the department the information required by OAR 340-096-0080(1) at least 180 days before the facility is proposed to begin operation.

(7) A composting facility, permitted by DEQ, must not accept any material for composting without DEQ approval. Packaging and food serviceware, as well as feedstock types 1, 2 and 3, must be approved by DEQ prior to acceptance for composting at a composting facility.

Statutory/Other Authority: ORS 459.045, 459A.025 & 468.020
Statutes/Other Implemented: ORS 459.005, 459.015 & 459.205
History:
DEQ 85-2018, minor correction filed 04/09/2018, effective 04/09/2018
DEQ 7-2013, f. & cert. ef. 8-29-13
DEQ 6-2009, f. & cert. ef. 9-14-09

340-096-0300
Commingled Recycling Processing Facilities

(1) Applicability.

(a) This rule applies to all commingled recycling processing 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, 96 and 97 as applicable.

(b) Beginning on July 1, 2025, no person may construct or operate a commingled recycling processing except as provided in this rule.

(c) A commingled recycling processing facility must comply with all requirements in this rule.

(2) Permit eligibility

(a) A commingled recycling processing facility must:

(A) Receive source separated commingled recyclable material that is collected commingled from a collection program providing the opportunity to recycle, per ORS 459A.863(3)(a)(A);

(B) Presort bulky recyclable and non-recyclable material, removing such material from the commingled stream being processed; and

(C) Separate all remaining materials into two streams, one of which is predominantly fiber and one of which is predominantly non-fiber containers, producing streams of materials that are intended for use or further processing by others; and

(D) For materials in the fiber stream, further separate and transport to a responsible end market no less than 95% of the recoverable uniform statewide collection list-related fiber in the stream.

(b) A facility that does not meet the requirements of Subsection (a) of this Section is not eligible for a commingled recycling processing permit but may be a limited sort facility provided that it meets the requirements of OAR 340-093-0030(65)(b). Limited sort facilities must comply with requirements in OAR 340-096-0320.

(3) 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)(a)(B) of this rule.

(b) Outbound contamination

(A) All Uniform Statewide Collection List material in OAR 340-0090-0630 that is sent to a responsible end market must not contain more than 5% contamination, as defined in ORS 459A.863(4)(b), by weight.

(B) The Department may conduct periodic assessments to determine compliance with the outbound contamination rate, as described in Section (3) of this rule.

(4) Responsible end market

(a) All material listed on the Uniform Statewide Collection List in OAR 340-0090-0630(2) that has been processed, and material handled in accordance with OAR 340-090-0830(4), must be sent to a responsible end market.

(b) Commingled recycling processing facilities and limited sort facilities must comply with all responsible end markets requirements established under OAR 340-096-0310.

(5) 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. DEQ, a contractor to DEQ, or a combination of both, will be tasked with conducting this assessment.

(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 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.

(6) 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 DEQ for evaluating and describing levels of inbound and outbound contamination as required by ORS 459A.955. The facility operations plan must be submitted to DEQ for approval.

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

(c) Groundwater. Commingled recycling processing facilities 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;

(8) 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.

NOTE: View a PDF of the Commingled Recycling Processing Facility Permit Material Capture Rates table by clicking on the link below.

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

Statutory/Other Authority: ORS 459A.955 & 459A.956
Statutes/Other Implemented: ORS 459A.955 & 459A.956

History:
DEQ 20-2024, adopt filed 11/24/2024, effective 11/24/2024

State of Oregon Department of Environmental Quality

OAR 340-096-0300

Commingled Recycling Processing Facility Permit Material Capture Rates

Table A: Commingled Recycling Processing Facility Permit Material Capture Rates

Fiber	July 1, 2025 Rate	Jan. 1, 2028 Rate
Cardboard (includes kraft paper)	96%	97%
Mixed paper (includes newspaper, packaging tissue paper, telephone directories, nonmetallized giftwrap, paperboard, magazines, catalogs and similar glossy paper, paperback books and molded pulp packaging)	96%	97%
Cartons	78%	88%

Plastic	July 1, 2025 Rate	Jan. 1, 2028 Rate
PET bottles and containers, excluding thermoformed containers (measuring at least 2 inches in at least 2 dimensions up to 2 gallons)	85%	93%
PET thermoformed containers	85%	93%
HDPE bottles and containers (measuring at least 2 inches in at least 2 dimensions up to 2 gallons)	88%	95%
HDPE and PP tubs & pails (2 to 5 gallons) and PP bottles and containers (measuring at least 2 inches in at least 2 dimensions up to 2 gallons)	83%	93%
HDPE and PP flower pots (measuring at least 2 inches in at least 2 dimensions up to 2 gallons)	70%	89%
HDPE and PP flower pots greater than 2 gallons	85%	92%

Metal	July 1, 2025 Rate	Jan. 1, 2028 Rate

Accepted aluminum cans (beverage and food)	88%	94%
Deposit and other steel cans accepted at curb	93%	98%
Other scrap metal (ferrous, non-ferrous + mixed metal) accepted at curb	88%	98%

Materials on Uniform Statewide Collection List	**July 1, 2025 Rate**	**Jan. 1, 2028 Rate**
Materials added to the USCL after these rules are adopted	75%	TBD

340-096-0310
Responsible End Markets Obligations of Commingled Recycling Processing Facilities and Limited Sort Facilities

(1) Responsible End Markets Standard

(a) A commingled recycling processing facility or limited sort 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 three steps:

(A) A commingled recycling processing facility or limited sort 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) A commingled recycling processing facility or a limited sort facility must ensure that each end market and other downstream entity provides quarterly disposition data that is sufficient to enable complete disposition reporting as described at OAR 340-096-0310(2).

(C) A commingled recycling processing facility or limited sort 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)(C).

(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)(C) 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)(C) within 12 months of first delivery to the end market.

(A) For facilities that receive and remelt loose scrap metal from Oregon-based shredders and that do not receive and remelt Oregon-origin baled metal, a commingled recycling processing facility need not complete the steps provided by paragraph (a)(A), (a)(B) and (a)(C) until 2033.

(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 or limited sort 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, limited sort 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, pursuant to OAR 340-090-0670(3)(f) or (i), the variance also applies to a commingled recycling processing facility or limited sort facility that sends materials to the end market that is the subject of the variance.

(2) 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 and limited sort 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 prescribed 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 all reports other than the first report due on the first of the month of each April, July, October and January, covering the previous quarter of the calendar year.

(i) The first disposition report is due December 15, 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 or limited sort facility wishes to send materials to an entity listed in OAR 340-090-0670(2)(a)(A)-(E) and 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 reporting categories designated administratively by the department. 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. Examples of such methods are the controlled blending methodology and the 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 destinations as follows:

(I) A single commingled recycling processing facility or single limited sort facility shall first calculate the total tons sent onward for subsequent processing, to end markets, or other disposition, for each material by reporting category for each calendar quarter.

(II) If a single commingled recycling processing facility or single limited sort facility sends to an individual end market or to an entity in the supply chain leading up to the end market less than one percent of the material in a given reporting category during a given quarter, as calculated in part (I) above, then reporting of that destination may be excluded, subject to limitations described elsewhere in this rule. This exclusion does not apply to other locations where material disposition occurs (including landfills and incinerators), nor to entities along pathways leading to other locations where material disposition occurs.

(III) A single commingled recycling processing facility or single limited sort facility may use the exclusion described in part (II) for no more than ten percent of the disposition of materials in any given reporting category for a given quarter, as determined in part (I) above.

(IV) Any tonnages sent to destinations excluded from reporting must still be reported to DEQ and shall be aggregated together and reported as “materials sent to destinations excluded from disclosure under OAR 340-096-0310(2)(a)(C)(iii).”

(D) A commingled recycling processing facility or limited sort facility may designate other entities to report either a portion of or all of its disposition data to the department on its behalf. If a designee fails to report, the obligation to report disposition remains with the commingled recycling processing facility or limited sort facility where the material originated. Designees must be limited to:

(i) entities that directly receive or directly take legal possession of material from the commingled recycling processing facility or limited sort facility; or

(ii) entities that do not receive material that originated at the commingled recycling processing facility or limited sort facility.

(3) Auditing. Commingled recycling processing facilities and limited sort 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).

(4) Material tracking. A commingled recycling processing facility or limited sort 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.

Statutory/Other Authority: ORS 459A.955
Statutes/Other Implemented: ORS 459A.955
History:
DEQ 9-2025, minor correction filed 04/04/2025, effective 04/04/2025
DEQ 20-2024, adopt filed 11/24/2024, effective 11/24/2024

340-096-0320
Limited Sort Facilities

Applicability.

(1) This rule applies to all limited sort facilities as defined in OAR 340-093-0030(65). 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, 96 and 97 as applicable.

(2) No person may construct or operate a limited sort facility except as provided in this rule.

(3) A limited sort facility must comply with all requirements in OAR-340-096-0040. For the processing of commingled recycling as defined in 459A.863(2), a limited sort facility must comply with all requirements in OAR-340-096-0300 (3)(b), (4), (5) and (8)(e).

Statutory/Other Authority: ORS 459A.955 & 459A.956
Statutes/Other Implemented: ORS 459A.955 & 459A.956

340-096-0840
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 wage 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, excluding (1)(a), 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), at the employer's discretion.

NOTE: View a PDF of the Calculated living wage for Commingled Recycling Processing Facilities used by Oregon local governments table by clicking on the link below.

[ED. NOTE: To view attachments referenced in rule text, click here for PDF copy.]

Statutory/Other Authority: ORS 459A.905
Statutes/Other Implemented: ORS 459A.905
History:
DEQ 20-2024, adopt filed 11/24/2024, effective 11/24/2024

Division 97
SOLID WASTE: PERMIT FEES

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.

(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, commingled recycling processing facility, limited sort facility or material recovery facility: $1,000;

(c) A new transfer station, commingled recycling processing facility, limited sort facility 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;

(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.

(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:

(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:

(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);

(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
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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
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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

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