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CHAPTER 340
DEPARTMENT OF ENVIRONMENTAL QUALITY

FILING CAPTION: Statutory Minor Correction 340-090-0820

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AGENCY ATTESTS THE FOLLOWING CHANGES HAVE BEEN MADE, ACCORDING TO ORS 183.335(7):

Correcting statutory or rule references

AMEND: 340-090-0820

RULE TITLE: Processor Commodity Risk Fee

RULE SUMMARY: There is also a scrivener's error at OAR 340-090-0820(3)(b)(B)(i). There is a missing "0" in the citation OAR 340-096-0310(2)(a)(B).

RULE TEXT:

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), as of 12:01 a.m. on the 46th day following the end of each calendar quarter, March 31, June 30, September 30, December 31. 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.
(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 recycling 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