



State of Oregon Department of Environmental Quality

Plastic Pollution and Recycling Modernization Act

Summary of -9 amendment to Senate Bill 582

April 8, 2021

Note: This document summarizes the major changes between Senate Bill 582-1 and the amended version, [Senate Bill 582-9](#). Not all changes are described here. Page and section numbers listed here refer to the -1 amendment.

The -9 amendment was prepared at the direction of Senator Beyer, Chair of the Senate Committee on Energy and Environment. The amendment content is described in two parts:

1. High-level summaries of changes that have been made in response to testimony.
2. More detailed amendment instructions that DEQ prepared after the -1 amendment was published. Many of these changes are intended to correct drafting errors that occurred in the -1 amendment.

Changes in response to testimony

Topic	Amendment
Labeling	<ul style="list-style-type: none"> • Maintain Section 58 (repeal of existing chasing arrows requirement for plastic packaging). • Delete Section 36 and replace with a task force with broad participation (including producers) to study the issue of Truth in Labeling and propose a solution for the 2022 Legislature.
Cap, reduce, streamline or clarify PRO expenses/obligations	<ul style="list-style-type: none"> • Changes to what is funded by PRO: <ul style="list-style-type: none"> ○ Cap total PRO expenses for multifamily site improvements at \$5 million annually. ○ Eliminate compost facility contamination fee (Section 26) and replace it with a study with recommendations to the Legislature. ○ Generator-facing contamination reduction programming (Sections 28 and 13(4)): Cap total PRO obligations at \$3 per-capita per year; require DEQ to periodically report to the Legislature on outcomes and recommendations to maintain, modify or discontinue this program. Align local government service requirements with funding limits. ○ Waste prevention and reuse program and fee (Section 32): Cap fee at 10% of rolling average of PRO’s other expenses for prior three years. • Other reductions, streamlining, and clarifications: <ul style="list-style-type: none"> ○ Narrow producer obligations for ensuring responsible end markets (Section 4(5)) for materials collected outside regular collection system or PRO collections. (Such as loads of cardboard collected directly from grocery stores.)

	<ul style="list-style-type: none"> ○ Reduce PRO notification requirements – change notification of member registry and non-amendment plan changes from monthly to quarterly. ○ Combine DEQ annual administration fee with plan amendment review fee. ○ New language clarifies PRO obligations to “ensure” responsible end markets are <i>to the extent practicable</i>. ○ Clarify that only covered products can be designated as specifically identified materials.
Litter and marine debris program	<ul style="list-style-type: none"> ● Delay start date by three years (July 1, 2028). ● Require DEQ to conduct a needs assessment and report to the Legislature prior to start. ● Require DEQ to periodically report to the Legislature on outcomes and recommendations to maintain, modify or discontinue this program.
Multifamily recycling	<p>Focus benefits on low-income tenants as follows:</p> <ul style="list-style-type: none"> ● Establish criteria for site improvement funding to go to communities that are low-income. <p>Provide greater flexibility and reduce obligations to PRO:</p> <ul style="list-style-type: none"> ● Change multifamily study to a needs assessment; PRO will use it to propose how it will fund multifamily site improvements. ● Amend Section 30(3) to clarify that PRO will propose in program plan how they will make progress toward achieving recommendations. ● Specify that cost-sharing is allowed. <p>Eliminate rulemaking for local government code requirements related to multifamily recycling (Section 20(2)).</p>
Relating to PRO fee schedule for members (producers)	<ul style="list-style-type: none"> ● Require PROs to charge flat fees to smaller producers (Section 11). ● Require PROs to set producer fees in a manner that avoids cross-material subsidization by material type and format. Also require sufficient transparency in fee setting by PROs to ensure compliance.
Increase flexibility for producers	<ul style="list-style-type: none"> ● Clarify that producers have flexibility to share responsibility with supply chain partners by changing “another producer” to “another person” in Section 4(2). ● Allow newspapers and magazines to use in-kind advertising services in lieu of fee payments (partial or full) to their PRO.
Reduce other requirements of producers	<ul style="list-style-type: none"> ● Narrow definition of “large producers” (Section 2(10)) and significantly reduce requirement of large producers to perform evaluation of life cycle impacts of covered products – from all products to a small number (Section 33(2)).
Additional exemptions	<ul style="list-style-type: none"> ● Covered products: <ul style="list-style-type: none"> ○ Exempt non-consumer facing nursery and on-farm packaging, as well as items sold on-farm. ○ Exempt tertiary packaging used to secure a palletized load if added by a party that is not the producer of the palletized covered products. ○ Exempt packaging of products collected under the existing paint EPR program. ○ Exempt packaging for prescription drugs and medicines administered by a licensed veterinarian. ○ Exempt materials where the producer can demonstrate the material is collected through a recycling collection service not provided under our public recycling programs and is recycled at a responsible end market. ○ Confirm that sharps (syringes, etc.) are not packaging. ○ Include pizza boxes in the definition of “food serviceware” (so that individual restaurants are not responsible for them). ○ Clarify that items meeting the definition of “food serviceware” are not also “packaging”

	<ul style="list-style-type: none"> • Producers: <ul style="list-style-type: none"> ○ Confirm exemption of most restaurants from definition of “producer.” ○ Exempt entities that exclusively sell product through a single point of physical retail, that are not part of a franchise, and that do not sell products online. • Exempt scrap metal facilities, scrap automotive or appliance recycling facilities, and others listed in Section 2(4)(b) from supplying information as part of the equity study (Section 29). • Exempt small companies that distribute 5 tons or less of secondary packaging (such as 6-pack rings) whose beverage containers are covered by the bottle bill from the requirement to join a PRO.
Plastic recycling goal	<ul style="list-style-type: none"> • Add more ambitious recycling goals for plastic recycling after 2028. • Change EQC authority to modify future plastic recycling goals.
Other	<ul style="list-style-type: none"> • Add two more seats for producers on the Advisory Council. • Add clarifying language that wine and spirit containers are exempt if they are included in the bottle bill. • Direct penalties (if any) to new Waste Prevention & Reuse Fund. • Reduce potential number of PROs by requiring PROs to have a minimum market share (10 percent). • Make the processor commodity risk fee more practical by requiring the average compensation to “target” rather than “equal” \$10/ton (Section 25(2)(d)). • Exclude landfill disposal cost from eligible costs for local government compensation (Section 13). • Add details to the study of non-mechanical recycling processes (Section 6(2)(a)(H)(vi)) • Define “generator,” “recycling depot” and “recycling reload facility.” • Define “licensee” and otherwise modify definition of “producer” for clarity. • Broaden confidentiality protections for end market data provided by recycling processing facilities. • Limit PRO payments for transport of materials to not compensate for unnecessary transport; require EQC to set reimbursement methods including a <i>de minimis</i> distance below which transportation reimbursement is not required.

Additional technical fixes

Unless otherwise noted, all changes list here were requested in instructions DEQ provided previously but were not reflected in the -1 amendment. Language in the -9 amendment may not match language listed here exactly.

Section	Page/Line	Change
		Add deadline of July 1, 2025 for when all producers must join a PRO and PRO(s) must be implementing their approved plans
		Revert to the original Section 1 language of HB 2065, and add new language making clear that the provisions of ORS 459A.075 do not apply to this bill.
2	3/9	“Receives source separated recyclable materials that are collected <i>commingled</i> from a collection program...”
2	5/12-14	Add “lids” and “bags” to the definition of food serviceware
2	8/27	“ Produced or sold in or into Oregon less than one metric ton of covered products...”
3		Definitions: clean up language for clarity and to reduce confusion between “packaged products” and “covered products.” <ul style="list-style-type: none"> • Change “products sold in packaging” to “items sold in packaging” (confusion regarding “product” vs. “covered product”)

		<ul style="list-style-type: none"> Change “product” (in the case of “packaged products” to “item”) <p>“(1)(a) For products<i>items</i> sold in packaging at a physical retail location in this state: “(A) If the product<i>item</i> is sold in packaging under the manufacturer’s own brand or is sold in packaging that lacks identification of a brand, the producer of the packaging is the person who manufactures the product<i>packaged item</i>; “(B) If the product<i>item</i> is manufactured by a person other than the brand owner, the producer of the packaging is the person who is the owner or licensee of a brand or trademark under which a packaged product<i>item</i> 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 packaging is the person who imports the packaged product<i>item</i> into the United States for use in a commercial enterprise that sells, offers for sale or distributes the product<i>item</i> in this state. “(b) For products<i>items</i> sold in packaging in or into this state via remote sale: “(A) The producer of packaging used to directly protect or contain the product<i>item</i> is the same as the producer for purposes of paragraph (a) of this subsection. “(B) The producer of packaging used to ship the product<i>item</i> to a consumer is the person who sells the product<i>item</i> to the consumer.</p>
6	17/20	“Reimbursements <i>and advance funding</i> to local governments...”
6	18/21	Insert “and making payments” after “reimbursement”
7	19/6-7	“The department shall approve a plan or plan amendment if it determines <i>to its satisfaction</i> that the plan or plan amendment complies with the requirements . . .”
7	20/1	“ . . . <i>if the revised plan is not timely submitted or if</i> the department does not approve the second revision, the department may bring an enforcement action for a violation of this subsection. ”
10	23/10	Include (m)
12	29/22-23	“ . . . <i>If the revised report is not timely submitted or if</i> the department does not approve the resubmittal, the department may <i>bring an enforcement action for a violation of this subsection.</i> ”
12	30/2	“The amount of materials processed and the final disposition <i>by weight or volume</i> of all materials . . .”
13	30/25	Delete “the for”
13	31/30, 32/1-10	Move Section 13(5)(d) so it applies to the entire section
13	32/15-17	Revise as follows: “A local government that commits to expanding recycling opportunities <i>during the needs assessment described in subsection 9 of this section using specified collection methods</i> is eligible for funding or reimbursements under this subsection.”
13	32/22-24	Revise as follows: “A producer responsibility organization shall provide funding for activities <i>requested by local governments through the periodic needs assessment in subsection 9 of this section</i> under this subsection for the duration of the organization’s producer responsibility program plan. ”
13	32/25	Move Section 13(6)(c) to Section 6 (program plan) and revise as follows: “ A producer responsibility organization shall establish: <i>Implement the requirements of Section 13(6) by establishing:</i> (A) A schedule for implementing collection program expansions and improvements throughout this state; (B) A method for determining funding or reimbursement amounts under this subsection <i>Section 13(6)</i> , consistent with rules adopted by the commission by rule; and (C) The total amount of funds that will be made available to local governments under this subsection <i>Section 13(6)</i> each year.”

13	34/1-3	Revise as follows: “A local government or local government’s service provider requesting reimbursement <i>that are not prepaid or calculated according to formulae</i> under this section shall submit an accounting of its costs to a producer responsibility organization.”
13	34/4-7	Revise as follows: “A producer responsibility organization shall remit payment for expenses under this section to a local government or the local government’s service provider or other person authorized by the local government to receive payment. <i>A producer responsibility organization shall provide written notification to the local government of any payments remitted to a person authorized by the local government to receive payment.</i> ”
16	37/18-19	“. . . to carry out litter and marine debris <i>prevention, cleanup and research.</i> ”
16		Effective date for litter obligations: start July 1, 2028.
17	39/13-15	Delete
17	40/4	Expand to include (F)
18	40/22	“Review activities that affect Oregon’s recycling system <i>related to this 2021 Act;</i> ”
18	42/2,6	Expand 1(d) to include 1(e) as well
22	45/8-9	Delete “specifically identified materials” from section title
25	49/23,25	Change “facility” to “facilities”
27	53/27	Delete “for the previous calendar year”
27	53/30 and 54/1	“. . . producer responsibility program plan <i>that includes actions the organization will take</i> to address the failure to meet the statewide . . .”
29	56/26	Replace “A business” with “A person”
29	57/18	“. . . shall submit a <i>new plan or</i> plan amendment . . .”
31	58/11	Replace “The Department of Environmental Quality” with “The Environmental Quality Commission”
37	63/13-16	Reword this. The processor alone does not certify; the processor relies on a third-party certification
40	64/29	“. . . five years <i>from the time the record was created.</i> . . .”
40	65/23	“. . . a covered product in <i>or into</i> this state.”

Alternative formats

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.state.or.us.