



State of Oregon Department of Environmental Quality

# Written Comments

Plastic Pollution and Recycling Modernization Act (SB 582, 2001)  
Rulemaking Advisory Committee Meeting 1 of 5, Rulemaking 1

This document is a compilation of written comments received related to the first meeting of the advisory committee for the Plastic Pollution and Recycling Modernization Act Rulemaking held July 20, 2022.

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**From:** [MUSGRAVE Deveron R](#)  
**To:** [2023 Recycling \\* DEQ](#)  
**Subject:** RAC #1 meeting comments/input: City of Eugene Waste Prevention Program  
**Date:** Tuesday, July 26, 2022 1:31:51 PM

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Hello.

Thank you for including the City of Eugene on the Rulemaking Advisory Committee for the Plastic Pollution and Recycling Modernization Act.

Related to meeting #1: it is the City's recommendation/feedback that financial burden option be used for calculating market share. It is our position that this method will define market share in a way that is more aligned with the Recycling Modernization Act's intent.

Respectfully,

**Deveron Musgrave** | Waste Prevention and Green Building

Waste Prevention and Green Building Program Manager, AIC

City of Eugene

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[www.eugenerecycles.org](http://www.eugenerecycles.org)



August 11, 2022

Oregon Department of Environmental Quality  
700 NE Multnomah St., Suite 600  
Portland, OR 97232

*Submitted via email*

**RE: Rulemaking/RAC Comment**

To whom it may concern:

The Consumer Brands Association appreciates the opportunity to provide written feedback on the Oregon Department of Environmental Quality's (DEQ) rulemaking efforts to clarify and implement the Plastic Pollution and Recycling Modernization Act of 2021. Consumer Brands represents the consumer packaged goods (CPG) industry and the world's leading food, beverage, personal care, and household product brands.

Our feedback on the rule concepts is as follows:

Rule Concept 2 – Market Share:

Regarding the calculation methodology for market share, Consumer Brands believes that DEQ needs to further outline and facilitate discussion with the Rulemaking Advisory Committee on how the financial burden approach would work in practice before considering its adoption. While the rule concept explains that a unit factor would be employed that corresponds with an estimate of the per-kilogram (or per-ton) financial burden of the covered product, it does not adequately articulate how the PRO will make a determination regarding the degree of recyclability of the covered products and the estimated cost burden of processing those materials through the state's disparate recycling system. DEQ should update the rule concept to define recyclability for the purposes of market share calculations and include examples regarding how specific unit factors would be identified and then used in fee calculations, as it did for the weight-based approach.

In light of these complexities, Consumer Brands recommends that DEQ move forward initially with using only a weight-based metric for denominating market share. Weight of covered products already is the basis for both producer reporting and accounting for material flows in the recycling system, and is easily comprehensible and less burdensome to implement than factoring in an estimate of the financial burden of the covered product to the recycling system. Fees that are assessed from producers will still reflect the different costs to manage the material streams. A financial burden method may also have the adverse effect of discouraging producers from utilizing source reduction practices as a means of reducing the volume of their packaging footprint.

Consumer Brands also recommends that DEQ clarify the definition of "large producer" and provide explanatory language regarding reporting scenarios for when there are parent and subsidiary companies. The largest 25 producers in the state will ultimately become subject to

additional life cycle impact reporting requirements, so it would be helpful for the agency to articulate how it will accurately identify such entities.

Thank you again for the opportunity for comment, we appreciate the efforts of DEQ and the RAC to develop rules to implement Oregon's packaging extended producer responsibility (EPR) law and strengthen the state's recycling system. The CPG industry has made packaging sustainability a top priority and we look forward to continued engagement throughout this process.

Respectfully,

A handwritten signature in black ink, appearing to read "Jared Rothstein". The signature is fluid and cursive, with the first name "Jared" being larger and more prominent than the last name "Rothstein".

Jared Rothstein  
Director, Regulatory Affairs  
Consumer Brands Association

**From:** [Rosalynn Greene](#)  
**To:** [NAYAR Roxy \\* DEQ](#); [ALLAWAY David \\* DEQ](#); [GRABHAM Cheryl \\* DEQ](#)  
**Cc:** [Pam Peck](#)  
**Subject:** Feedback from Metro on RAC Mtg #1  
**Date:** Wednesday, August 17, 2022 12:26:37 PM

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Oregon DEQ Staff:

Thank you for this opportunity to provide input and for having a seat at the table for Metro on the Rule Making 1 Advisory Committee. We are grateful to DEQ staff for all your work leading and supporting the implementation of the Plastic Pollution and Recycling Modernization Act. Transforming Oregon's recycling system is groundbreaking work and we are committed to providing ongoing support when and where it's needed.

The purpose of this message is to provide you with our feedback on how the first meeting went and also submit written comments on the materials and Responsible End Market concepts and material presented at the Rulemaking Advisory Committee on July 20<sup>th</sup>.

### **Feedback on Meeting Content and Facilitation**

- It was exciting to participate in the kick-off meeting and overall it went very well because the participants were engaged and eager to contribute.
- Wonderful job on the presentations David, Cheryl, Roxann and Nicole. For me the highlight was seeing Nicole Portley present for the first time on the topic of Responsible End Markets. She was calm, informative and answered questions really, really well. Her expertise came through and she shined on that stage. Go Nicole!
- I think it would be helpful for DEQ to begin the presentations or discussion by grounding the committee in what the bill says about the topic, at a high level. I think this will help folks focus their feedback and avoid rehashing issues that were discussed and decided by the Recycling Steering Committee and Oregon Legislature.
- At times the conversation felt scattered and as a participant, I was confused on what to give feedback on. For example, when the

presentation ended and it was time for discussion, it was unclear if we were discussing the rule concepts 1 by 1 or all at the same time. Moving forward, my recommendation is 1 by 1 because it is challenging and intimidating to articulate feedback on it all at once.

- A number of questions were asked by committee members but the way DEQ staff responded to each question was inconsistent. Some of the questions were answered but some were not and the notes following the meeting, didn't provide answers to the unanswered questions. The inconsistent approach will likely raise more questions/frustrations by committee members. We believe a best practice for engagement is to ensure all questions are included in the notes and asking folks if the answer was sufficient.
- When questions or issues were raised related to equity, litter or multifamily services I heard DEQ staff answer the questions by explaining the question would be answered by the future studies. I have general concerns that I would like to discuss with Cheryl or David before the next meeting in September.

### **Feedback on Responsible End Markets Presentation**

- The standards for "responsible end market" are compliant, transparent, and environmentally sound and achieves an adequate yield to address the negative environmental, social, economic and health impacts that can result from recycling in our current system. The RMA specifically states a responsible end market is one that "minimizes risks to public health and worker health and safety." The "Environmentally sound" category requires that an end market "Is willing to be audited and monitored for outdoor air, water and land emissions and disposal, and stores and manages waste and recyclables in a way that avoids release into the environment." Metro recommends that worker health and conditions should be included in "environmentally sound" auditing, or better yet, it should be added as its own standard.
- Related the definition of "practicable" and the PRO obligations "to the extent possible" ensure covered products are delivered to end market, Metro strongly favors strategies that incentivize producers to make

investments in local, national and international markets to help them meet the responsible end market standard.

- Metro has concerns about the proposal that one of the standards for meeting the responsible end market is meeting local laws and requirements. Standards vary by state and country because they have different regulations for environmental, public health, worker health, and safety. Our recommendation is the standards for responsible end markets should at minimum, meet the minimum standards that currently exist in OR.
- The DEQ staff recommendation was PROs should be responsible for achieving, auditing and reporting on end markets and Metro strongly supports this recommendation. We also believe the auditing should include a variety tools and methods because of how challenging it is to track the management of recyclables. Auditing should include bale tracking and reporting that provides transparency for where the materials travel from when it leaves Oregon all the steps along the way, through final disposition.

I apologize this feedback is three days late, past last Friday's deadline. Reach out if you have questions or if there is anything you'd like to discuss further.

Rosalynn Greene  
Policy and Program Development Manager  
Waste Prevention and Environmental Services (WPES)  
Metro  
600 NE Grand Ave  
Portland, OR 97232

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Pronouns: she, her

SENT VIA EMAIL: Recycling.2023@deq.oregon.gov

To: Roxann Nayar, Oregon Department of Environmental Quality

From: Paloma Sparks, Oregon Business & Industry

Re: Draft recycling rules 1-5

Date: August 12, 2022

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Thank you for the opportunity to submit comments on the initial proposed rules for the Recycling Modernization program for Oregon Business & Industry members. OBI is Oregon's most comprehensive business association representing over 1,600 businesses that employ over 250,000 people. We represent multiple sectors and serve as the state's Retail and Manufacturing Councils.

#### Rule 1: Fees

Without a great deal of more information, it is difficult to provide meaningful comment on the agency administrative fee. At this point, we have not finalized all the elements of what DEQ will be doing and what the fee would pay for. From OBI's perspective, it makes more sense for this rule to be addressed once other elements of the program are more clearly defined. We urge the agency to either delay this rule or to more clearly identify what the fee will pay for in much greater detail.

#### Rule 2: Market Share

The proposed language described in the materials provided by DEQ does not make sense. Market share should be defined the way most people understand the phrase – meaning the percentage of sales by a company. That is how most dictionaries would define the phrase and the rules should not significantly depart from that. There are other elements of the rules that more properly address the “weight” or “financial burden”. Redefining “market share” in a way that is counterintuitive to fit a goal of addressing how products enter into the recycling system will create unnecessary confusion.

#### Rule 3: PRO Coordination

We urge the department to delay development of this rule until we know more about how many and which types of PROs we may have in place for the program. Will they be industry-specific? Or will there just be more than one doing essentially the same thing? It would be better if the actual PROs, rather than possible PROs, be able to participate in the development of this rule.

#### Rule 4: Responsible End Markets

This rule presumes two separate conflicting philosophies that must be reconciled. First, if local governments and haulers control which products are recyclable and how, then the PRO has little control over how and where items are recycled. The rule, though, presumes a level of control over the system that simply is not reflected in the law or structures of our system. Either



the PRO must be given a greater say in how the system operates or they must be relieved of some of the obligations around how the system operates. If PROs are required to conduct auditing then that should also extend to allow the PRO to audit local governments and haulers.

Thank you for considering our comments.