



Meeting 4: Input and Follow-up

March 3, 2023

Introduction

Rulemaking Advisory Committee members shared input during and after the [January 2023 RAC meeting](#). DEQ considers all input received and continues to make changes to draft rules based on questions and information shared during the rulemaking process. Another important part of the rulemaking process is building a deeper understanding of the Plastic Pollution and Recycling Modernization Act and the aspects that are being clarified through administrative rule. In that spirit, following are summaries of input we received and brief notes that inform readers or explain DEQ's approach. For those who seek more detailed conversation, please reach out to DEQ staff.

Topics covered in this document include:

1. Collection, convenience and performance standards for PRO collection service
2. Price premium to contract with existing recycling depots or drop off centers
3. Operating hours for collection points
4. Labor and wage standards
5. Contamination by system users; generator-facing contamination reduction efforts
6. Material acceptance lists

1. Collection, convenience and performance standards for PRO collection service

- Can sales data be included when collection targets are set?
 - Sales data can be used when proposing collection targets; the proposed [rule concept](#) precludes using *only* sales data.
- Is it feasible to expect PRO(s) to separate packaging and non-packaging glass (such as window glass)?
 - Broken window glass is a significant contaminant in most recycling pathways for glass packaging. DEQ anticipates that if the proposed performance standards are met, window glass contamination should be minimized.
- Are there incentives DEQ could include that would encourage PRO(s) to consolidate collection points?
 - DEQ prefers to let the PRO(s) propose the best way to meet convenience standards. However, if the system becomes inefficient, DEQ and others can help encourage changes through the program plan review process.
- Can DEQ consider adding best practices or guidance for mobile collection events?

- Yes. DEQ is looking into including these types of best practices in the draft rules related to performance standards.
- Is there an exemption or alternative approvals process for PRO(s) to dispute the number of required depots if staffing or collection rate ratios are not sustainable?
 - Yes, please see the convenience standard [rule concept](#).
- Do the collection point staffing requirements apply to new operators?
 - No, that is a mistake in the rule concept document. Proposed performance standards would apply to all collection points, both new and pre-existing. DEQ expects that PRO(s) may take a variety of approaches to achieving the performance standards, without necessarily requiring on-site staffing at all collection points during all hours of operation.
- Could a PRO be required to provide additional collection service to populations that may otherwise find access difficult?
 - DEQ is considering a rule for PRO program plan requirements which will ask PRO(s) to describe actions to ensure accessibility and opportunities to recycle for populations who may otherwise experience barriers reaching collection points.
- DEQ's proposed convenience standards may result in no collection points in areas of counties that are not densely populated, such as unincorporated areas around Mt. Hood.
 - Point noted. However, existing recycling depots serving such areas (e.g., Sandy, Hood River) may choose to contract with the PRO for acceptance of materials on the PRO Recycling Acceptance List. If they do, it would provide recycling access for such materials that is no less (and no more) convenient than more traditional materials (e.g., steel cans).
- How many existing depots are there in Oregon that meet either criteria (a) or (b) in DEQ's rule concept on convenience standards (concept III (1))?
 - DEQ is currently collecting this information and will share it once complete.
- Could household hazardous waste facilities be added to the list of facilities included in DEQ's proposed definition of "existing recycling depots or drop off centers?"
 - A review of all such facilities currently operating in Oregon confirm that they are either permitted or are co-located with a facility such as a transfer station that is already permitted, and as such are eligible to contract with PRO(s).

2. Price premium to contract with existing recycling depots or drop off centers

- A price premium for PRO(s) to "where possible" first contract with "existing recycling depots or drop off centers to provide for collection of the covered product" should not be a fixed value in rule.
 - The price premium DEQ is proposing will be a percentage in rule, and not a fixed value. DEQ is still seeking feedback about potential percentages to consider.
- Can the proposed price premium consider the cost difference between existing depots that already pay a living wage and benefits compared to those that do not?

- DEQ does not have the authority to require PRO(s) to pay the price premium when there is a cost difference between depots that offer living wages and benefits and those that do not. However, the proposed price premium for existing depots, which would be justified to provide enhanced convenience and reduced environmental impacts, may have a co-benefit of supporting living wages and supportive benefits for facility workers.

3. Operating hours for collection points

- DEQ should consider the following criteria for depot operating hours:
 - a. Open at least 4 days per week, with one day being a Saturday or Sunday
 - b. Open at least 8 hours per day
 - c. Providing staffing at all locations
 - Thank you for the constructive suggestion. DEQ is considering requiring the PRO(s) to provide operating hours that are: a) for a collection point co-located at an existing recycling depot, transfer station, retail or other location, the same hours as that site is generally open to the public, or b) for a stand-alone site, at least 4 days per week with one day being a Saturday or Sunday, and at least 8 hours per day.

DEQ is not proposing to require staffing at all locations except those that accept aerosol containers and pressurized cylinders, for reasons described in the [performance standards rule concept](#) document.

- DEQ presented the convenience standards rule concept and asked the RAC for specific feedback or suggestions on how to establish appropriate operating hours at collection points (depots). In response, RAC members asked for examples from existing Extended Producer Responsibility (EPR) programs to help inform committee members’ consideration.

Program Name	Hours
E-Cycles	Must align with existing retail and solid waste collection/drop-off points.
Drug Take Back Program	“Drop-off site must be available for use during the normal operating hours of the authorized collector”
Mattress	<i>(Proposed)</i> It will be described in the PRO’s program plan, and likely the operating hours will align with the facility’s existing hours.

4. Labor and wage standards

- Can the rulemaking address labor standards at depots?
 - DEQ has not been granted authority to address labor and wage standards at depots through rulemaking.

5. Contamination by system users; generator-facing contamination reduction efforts

- Will the adoption of a Uniform Statewide Collection List with more materials on it increase the likelihood that customers will begin placing all types of materials in their recycling bins?
 - The proposed USCL is comparable to the current list being used in the Portland metro tri-county area, where one study found an average contamination rate in single-family curbside recycling bins of approximately 9 percent¹.
- When will front end contamination be addressed in this rulemaking?
 - This rulemaking does not address front-end contamination reduction, except for the rule concept clarifying how PRO(s) will compensate local governments for contamination-reduction programming. The statute itself includes requirements to address contamination at the source that do not need additional clarification via administrative rule or are not in the scope of this current rulemaking. Requirements in the Act that address contamination reduction include:
 - Requiring local governments (or their service providers) to provide a diversity of programming to reduce contamination at the source. Examples include community education, targeted outreach to sources of contamination, a program to provide service or financial consequences to repeat sources of contamination, and ongoing contamination assessments.
 - Requiring PRO(s) to compensate local governments up to \$3 per person per year for their costs associated with implementing contamination reduction programming.
 - Funding a study researching the effectiveness of contamination reduction programming that includes engagement with local governments and their service providers.
 - Requiring culturally responsive and statewide programming, outreach, and outreach materials developed by the PRO(s).
- Who pays for contamination?
 - The PRO(s) are required to compensate commingled recycling processing facilities for the costs associated with the removal and disposal of covered products that are contaminants (see Contamination Management Fee, ORS 459A.920). Costs associated with meeting new permit standards (ORS 459A.955) that will address materials disposition reporting and outbound bale quality, among other things, will be funded through a Processor Commodity Risk Fee (see ORS 459A.923). Separately, the PRO(s) will fund local governments or their service providers for costs associated with delivery of generator-facing contamination reduction programming (ORS 459A.890(4)) and assessments (ORS 459A.890(3)).
- Cartons may contaminate the paper line.
 - This is possible, but the commingled recycling processing facility may choose to sell the bales to an end market that can recover the fiber from the cartons, or conduct additional sorting to remove and redirect them to the container line or a separate commingled

¹ Metro Single-family Recycling and Waste Composition Study:
https://www.oregonmetro.gov/sites/default/files/2015/08/12/SFRWS%202015%20Report%2007232015_2.pdf

recycling processing facility (secondary processor) for additional sortation.

- DEQ’s review of user behavior and contamination was focused on a limited sample size of experiences and did not include experience from the Rogue Valley.
 - DEQ’s review of user behavior to answer whether a longer acceptance list would lead to more contamination included multiple discussions during technical workgroup meetings, research conducted by Cascadia Consulting Group, and multiple requests for specific information, particularly quantitative data. DEQ received limited quantitative data and Cascadia Consulting Group’s analysis found little evidence that list length would increase contamination. The Rogue Valley experience was discussed in the materials acceptance list technical workgroup meeting, and it was not possible to verify how much, if any, of the contamination reduction there was due to shortening the acceptance list vs. the community’s extensive public outreach and generator feedback program.

6. Materials acceptance lists

- Fees assessed on materials not included on acceptance lists should be directed towards research and development for future acceptance of these materials.
 - The PRO may choose to conduct such programming. However, DEQ does not have the authority to require it. Other aspects of the RMA will help pay for burdens associated with materials not included on the acceptance lists.
- Will DEQ consider lowering the size threshold for plastic containers, and apply the dimensional standards recommended by the Association of Plastic Recyclers?
 - DEQ is evaluating the Association of Plastics Recyclers (APR) standards as an alternative to a volume-based standard.
- Will DEQ define or specify how many “multiple” responsible end markets are required to meet the minimum criteria as described in the rule concept?
 - DEQ does not intend to specify a fixed number in rule because there are several criteria that impact whether a responsible end market will meet the statute’s reference to “stability, maturity, accessibility and viability” of responsible end markets.
- Does DEQ have documentation like contract terms, delivery standards, amount of material to be delivered, contamination standards, etc. to demonstrate the existence of responsible end markets?
 - DEQ did not obtain transactional information when researching the existence of responsible end markets, partially because transactional information in the future will likely change.

When DEQ researched the existence of end markets for the proposed materials list, DEQ verified responses to its request for information with internet searches and some follow-up phone calls. Moving forward, DEQ will rely on the regulatory standards described in ORS 459A.896(2) to ensure that these requirements will be met.

- Will DEQ reconsider excluding thermoform plastics from the acceptance list and consider defining the term?

- DEQ presently lacks compelling evidence that existing reclamation opportunities for PET thermoforms are sufficiently stable, mature, accessible, viable or responsible. Should new information become available, DEQ will reconsider the exclusion.

DEQ will explore how and whether to define thermoform in rule, though it may not be necessary depending on the final version of the recycling acceptance lists.

- Why is commercial glass collection proposed as an option for the Portland metro area and what does that mean for other local governments?
 - The rule concept proposes requiring local governments inside the Portland metro watershed to provide on-route collection of glass from non-residential (commercial) generators because on-route glass collection from commercial sources in the Portland metro area makes sense in terms of the environmental benefits and impacts. Statewide, PRO(s) would have an obligation to provide recycling for glass packaging because it is a material on the PRO Recycling Acceptance List. This does not prevent local governments from providing on-route glass collection in their communities.
- How can paper cans be considered a recyclable commodity if there are no end markets that would accept them by the truckload?
 - In DEQ's proposal paper cans are not intended to be shipped by the truckload. This recommendation assumes that the paper cans will be separated through the commingled separation process for the metal components. The metal will be sent through the metal recycling pathway.

DEQ's recommendation was based on information received from Sonoco Recycling whose research found that the environmental impacts were more favorable recycling the metal rather than the paper fiber. DEQ has been reasonably assured that end markets exist for this materials because [acceptance letters](#) were received from multiple steel mills.

- There are not multiple end markets for aseptic cartons.
 - DEQ received [sufficient information](#) supporting its conclusion that multiple end markets exist. If that changes and the PRO(s) are unable to verify that the cartons are sent to responsible end markets, DEQ can reconsider their inclusion on the acceptance list.
- What is the carbon footprint of shipping cartons to the Midwest?
 - This information was presented in more detail during Meeting 5 of the [DEQ Technical Workgroup on Material Lists](#). The greenhouse gas emissions from transporting aseptic cartons has been found to be relatively low, when compared against the benefits of virgin fiber displacement or avoided landfilling.

Translation or other formats

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