

Rulemaking Advisory Committee Meeting #3

Plastic Pollution and Recycling Modernization Act

Nov. 9, 2022
Zoom Webinar

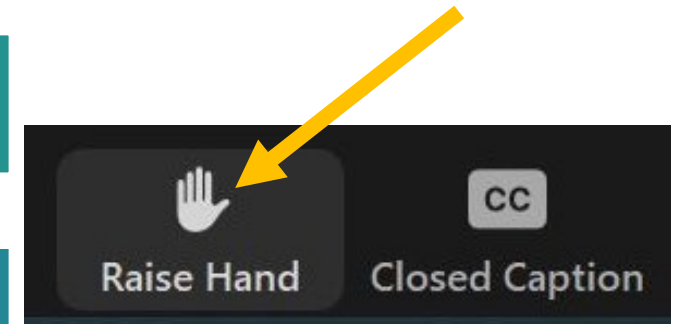
Agenda

Time	Topic
9 a.m.	Welcome, overview of today's meeting
9:10 a.m.	Introductions
9:20 a.m.	Follow-up information from September RAC meeting
9:30 a.m.	Rule Concept: Local Government Compensation - Transportation Reimbursement
10:20 a.m.	BREAK
10:30 a.m.	Rule Concept: Recycling Materials Acceptance Lists Part One
12 p.m.	LUNCH BREAK
12:30 p.m.	Public Input Period*
1 p.m.	Materials Acceptance Lists continued*
2 p.m.	Meeting adjourns*

**Times may be adjusted*

Webinar Tips

- 1 Join audio either by phone or computer, not both
- 2 For panelist discussion and comments, use the raise hand button to get in the queue; if by phone press *9
- 3 This meeting is being recorded
- 4 For Zoom technical issues email roxy.nayar@deq.oregon.gov or text 503-593-3306



Meeting ground rules

- Listen and treat everyone with respect
- Allow one person to speak at a time – raise hand
- Be prepared and set time aside for the meetings
- Provide a balance of speaking time
- Bring concerns and ideas up for discussion early in the process
- Comment constructively
- Move around and take care of yourself as needed

Introductions- DEQ Staff



Cheryl Grabham, Program Manager, Materials Management Product Stewardship Team



David Allaway, Senior Policy Analyst



Justin Gast, Natural Resource Specialist



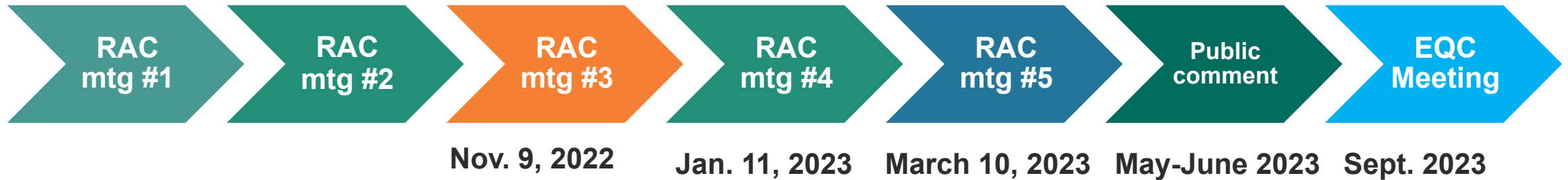
Roxann Nayar, Recycling Program Analyst

Input and Engagement

- RAC input is welcome throughout the process
- DEQ will clarify and provide information when possible
- Input received within 10 days of RAC meetings will help staff prepare in advance of following meeting
- Comments and questions received will be considered during rule development
- Thank you for offering solutions
- Formal comment period will be in May-June 2023

Rulemaking 1 Timeline

We are here

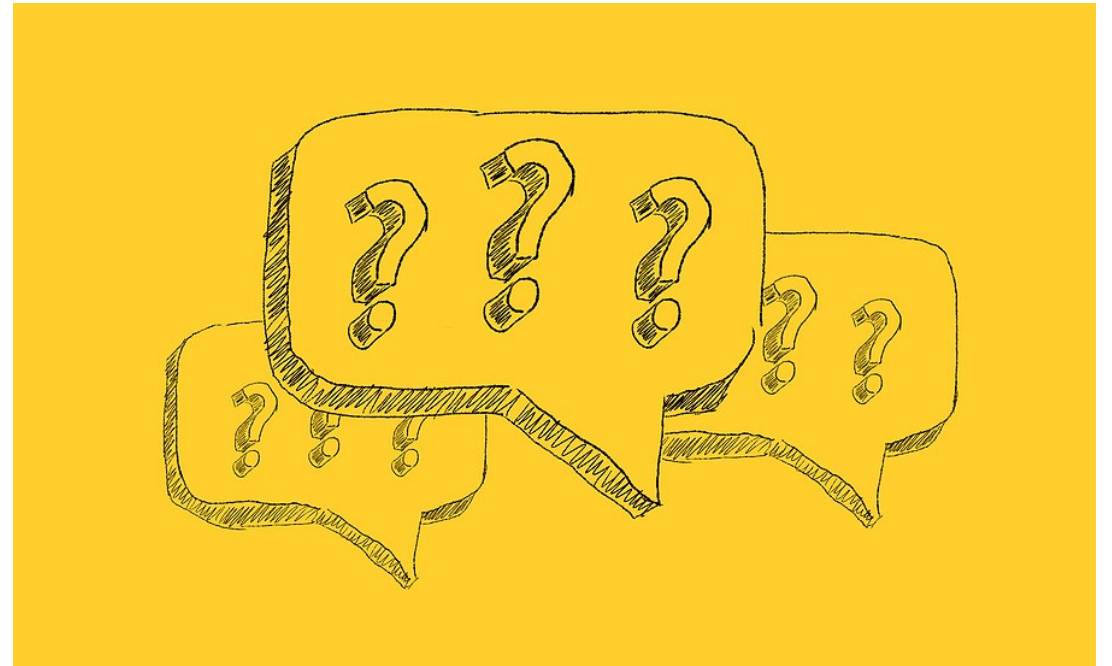


Statute, rule, and program plans

- Statute establishes requirements (set by Legislature)
- Administrative rules are more specific (adopted by Environmental Quality Commission)
- Program plans include operational details (approved by DEQ)

Follow-up from last RAC meeting

- Needs Assessment
- Designating Local Service Providers
- Responsible End Markets



Follow-up: Service Expansion

What will be the commitment process for local governments for service expansion?



There will be a multi-phase process:

- *completing the needs assessment*
- *negotiations between the PRO and local governments,*
- *entering into agreement(s)*

Follow-up: Service Expansion

Should there be a cap on service expansion expenses?



There will be no unexpected expansion costs.

- Only services identified during the needs assessment will be eligible for compensation.*
- The PROs will be able to plan based on the needs assessment results.*

Follow-up: Service Providers

When will Local Governments be able to designate service providers to be eligible for funding from PROs?



The designation process will be developed late 2024, or early 2025

Follow-up: Responsible End Markets

1. Can you provide more information about the third-party certification process?
2. Will the cost/benefit assessment for “practicable” be available for review?

Follow-up: Responsible End Markets

Can you provide more information about the third-party certification process?



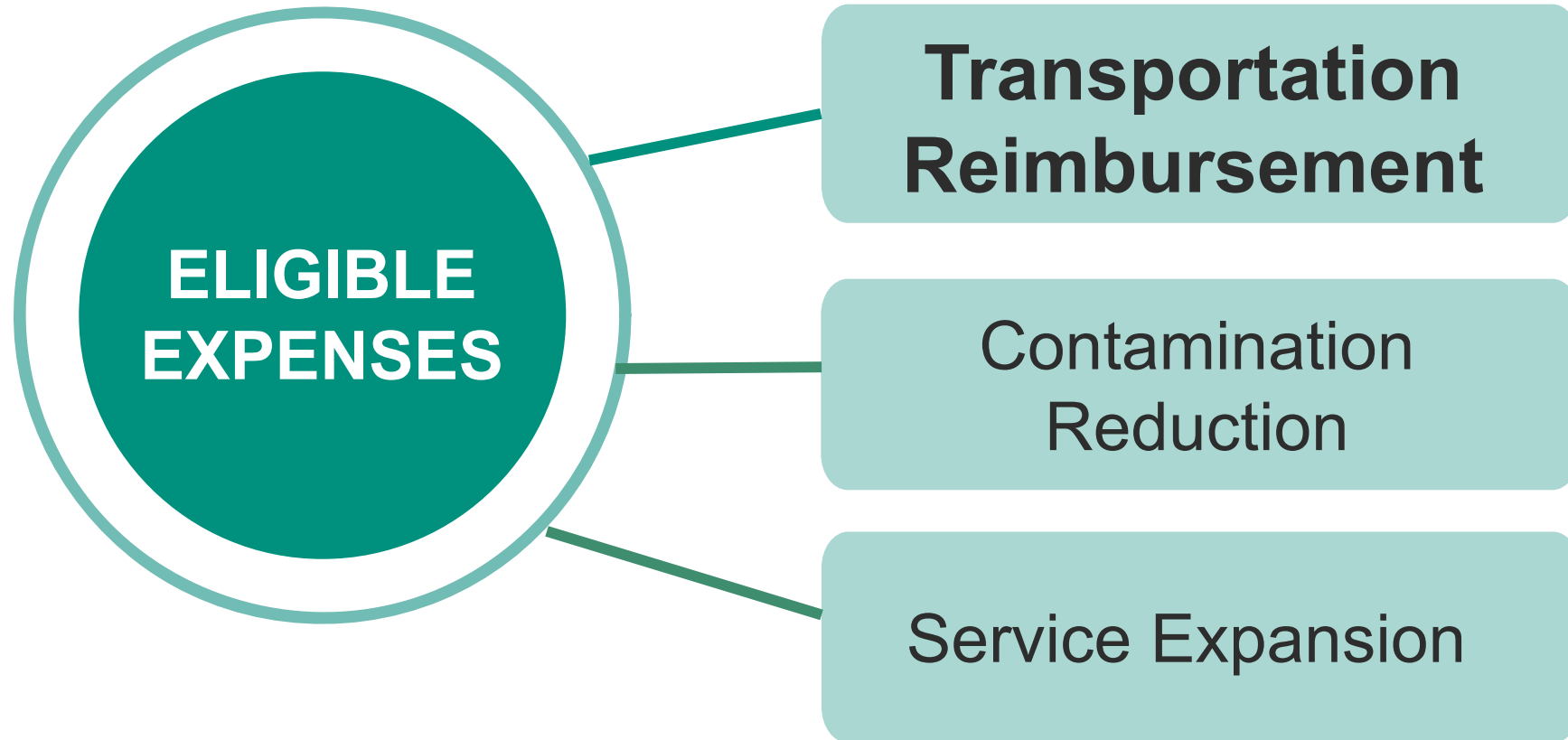
This topic will be researched and may not be completed until the second rulemaking.

Will the cost/benefit assessment for “practicable” be available for review?




*Yes, in **2023**, once the analysis is complete*

Local Government Compensation



Rule Concept: Transportation Costs Reimbursement



State of Oregon Department of Environmental Quality

1. Rule Concept: Transportation Costs Reimbursement

Plastic Pollution and Recycling Modernization Act (SB 582, 2021)
Rulemaking Advisory Committee Meeting 3 of 5, Rulemaking 1

Oct. 26, 2022

Background

This memo provides background information for the Rulemaking Advisory Committee (RAC) on the topic of transportation costs reimbursement. The Plastic Pollution and Recycling Modernization Act ("Act") requires a Producer Responsibility Organization (PRO) to fund in advance or reimburse a local government or the local government's service provider for the cost of transporting covered products from a recycling depot or recycling reload facility to a commingled recycling processing facility or responsible end market.

Eligible transportation costs include receiving, consolidating, loading, and transporting covered products. Per ORS 459A.890(2), the Environmental Quality Commission ("the commission") is required by rule to establish methods for determining funding or reimbursement amounts, and eligible costs for transporting covered products.

Concepts for discussion at Nov. 9, 2022 RAC meeting

- Rule concept for discussion: Reimbursement for transporting covered products**
- Distance**

Per ORS 459A.890(2)(b)(E), local governments or their service providers are eligible for reimbursement of costs associated with transporting covered products from a recycling depot or recycling reload facility that's 50 miles or greater in distance from a commingled recycling processing facility or responsible end market with capacity to accept the material. For the purposes of these proposed rules, "capacity" includes a willingness to accept the material.

The distance of 50 miles is measured as the shortest driving distance and applies to materials as follows.

 - If the material is fully commingled, the distance measured is to the nearest commingled recycling processing facility.
 - If the material is collected separately 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.

Rule Concept: Transportation Costs Reimbursement

Distance

- 50 miles is measured as the shortest driving distance. If material is:
 - Fully commingled, distance measured is to the nearest commingled material recovery facility.
 - Collected separately or is not fully commingled and requires further sorting or processing before being received by a responsible end market (e.g., glass), then distance is measured to the nearest processing or sorting facility that will prepare the material and send it to a responsible end market (e.g. Glass to Glass).
 - Collected separately in a condition that it can be received directly by a responsible end market without additional processing, then the distance is measured to a responsible end market.

Rule Concept: Transportation Costs Reimbursement

Determining Portion of Load

- For initial program start-up period, data from DEQ's 2023 Waste Composition Study will be used to determine eligible costs for fully commingled material.
- Starting in 2027, and at least once every five years, producer responsibility organization shall fund a study to update information on the portion of collected commingled material that is covered product and is eligible for transportation reimbursement.

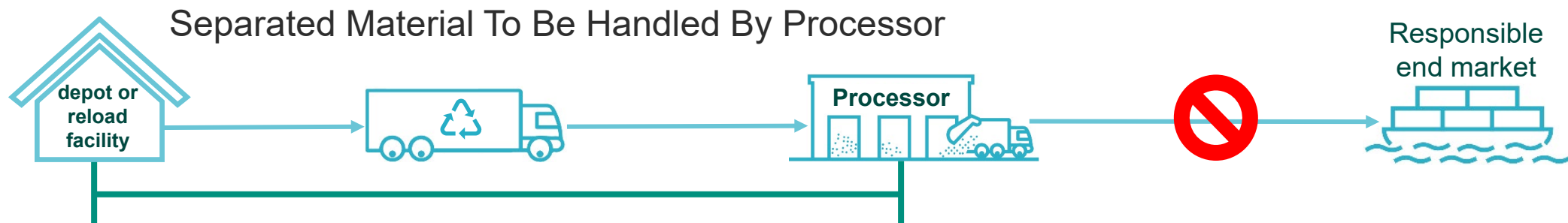
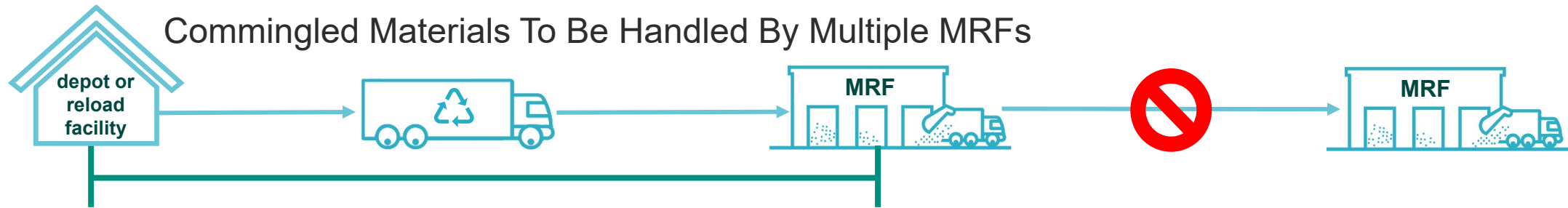
Rule Concept: Transportation Costs Reimbursement

Portion of Load

- If a local government or the PRO believes the local commingled recycling stream has a substantially different proportion of eligible covered products compared to the statewide average, either party, at their own expense, may conduct a study to determine the percentage of covered product in the local collected commingled recycling.
- If the load is mixed with non-covered materials, the funded amount shall be reduced by the percentage of material shipped that is not a covered product.

Rule Concept: Transportation Costs Reimbursement

Processing



Rule Concept: Transportation Costs Reimbursement

Eligible costs

- Transporting materials from a depot or reload facility 50 miles or greater to a commingled recycling processing facility or responsible end market.
- Receiving, consolidating, and loading covered materials includes:
 - Purchasing and maintaining equipment
 - Signage
 - Other similar costs of running and maintaining the recycling depot or recycling reload facility not already covered
- Administrative costs include, but are not limited to:
 - Staffing
 - Hiring and managing staff

Rule Concept: Transportation Costs Reimbursement

Method of Calculating Costs

- PRO, the local government or local government's service provider and DEQ shall reach an agreement on the method of calculating transportation costs. Methods may include, but not be limited to:
 - Rate schedules or zonal maps specific to:
 - Locations and materials, with periodic adjustments for fuel prices or other variable factors
- Reimbursement of actual third-party transportation costs
- (Available option) Transportation handled directly by the PRO
- The PRO shall propose available methods in its program plan.

Rule Concept: Transportation Costs Reimbursement

Dispute Resolution

- If a dispute is to unfortunately arise, the resolution will be conducted in the manner outlined in the PRO's approved program plan, per ORS 459A.875(2)(e).

For Discussion: Minimum Weight

- Should there be specifications on the minimum weight of materials per truckload to allow efficient, cost-effective transport?
 - What are those specifications might be?
 - How might payment amounts vary if loads are underweight?


Discussion



Break



Materials Acceptance Lists: Background Papers



State of Oregon Department of Environmental Quality
Background Paper: Overview of Material Acceptance Lists
Plastic Pollution and Recycling Modernization Act (SB 582, 2021)
Rulemaking Advisory Committee Meeting 3 of 5, Rulemaking 1
Oct. 27, 2022

Background

Oregon's Plastic Pollution and Recycling Modernization Act involves several different lists and types of materials. These include "covered products," "specifically identified materials," and multiple lists of materials designated as suitable for recycling and for which producer responsibility organizations (PROs) or local governments must collect for recycling. This document defines each list, provides an overview of how they overlap and relate to the others, and describes what each list means for PROs.

A separate background paper titled, "[Oregon's Opportunity to Recycle Requirements Relative to Proposed Materials Acceptance Lists](#)" provides more detailed information on what recycling program acceptance lists mean for local governments.

For reference at the Nov. 9, 2022 RAC meeting

Definitions


ORS 459A.863 defines "covered products" to mean packaging, printing and writing paper, and food serviceware. It also provides multiple exemptions, which are described later in this document. Producers of covered products are obligated to join a PRO, report sales, and pay fees, regardless of whether the material is placed on a recycling acceptance list or not.

ORS 459A.914 directs the Environmental Quality Commission to identify materials that are suitable for recycling in Oregon. The EQC will distinguish between materials collected and recycled by local governments which meet the state's Opportunity to Recycle requirements, and materials that PROs must collect via depot sites or mobile collection events, as required by ORS 459A.896(1). The **Local Government Recycling Acceptance List** and **PRO Recycling Acceptance List** are collectively referred to as "**material acceptance lists**."

Some materials are suitable for collection through commingling (corrugated cardboard, for example) while others are not (motor oil, for example). ORS 459A.914(4) directs the Department of Environmental Quality to establish and maintain a "**uniform statewide collection list** of materials that are appropriate to be collected through a commingled recycling program." That list represents a subset of the Local Government Recycling Acceptance List.

ORS 459A.917 directs DEQ to establish and maintain a list of "**specifically identified materials**." As defined in ORS 459A.863, a specifically identified material means "a material or covered product identified by the department under ORS 459A.917." By designating a material as a "specifically identified material," DEQ can require PROs to describe through their program plan (or plan amendment) efforts the PRO will make to support collection, processing, responsible recycling, or responsible disposition of such materials.

1



State of Oregon Department of Environmental Quality
**Background Paper:
Oregon's Opportunity to Recycle Requirements
Relative to Proposed Materials Acceptance Lists**
Plastic Pollution and Recycling Modernization Act (SB 582, 2021)
Rulemaking Advisory Committee Meeting 3 of 5, Rulemaking 1
Oct. 27, 2022

Background

This document provides an overview of Oregon's Opportunity to Recycle requirements for local governments (ORS 459A.005 and .007). It describes how those requirements will be impacted by materials acceptance lists under the Plastic Pollution and Recycling Modernization Act (ORS 459A.914), that will be established by the Environmental Quality Commission and DEQ.

For reference during the Nov. 9, 2022 RAC meeting

Basic Requirements

ORS 459A.005 defines the "opportunity to recycle" by requiring that any city, county or metropolitan service district responsible for solid waste management provide either a "standard" opportunity or an "alternative method" that complies with rules established by the commission. The "standard" program includes **general requirements** and **program elements**:

General Requirements

- All communities must provide, "a place for collecting source separated recyclable material located either at a disposal site or at another location more convenient to the population being served" and a "public education and promotion program" that gives notice of the opportunity to recycle and encourages source separation of recyclable material.
- Cities with populations of 4,000 or more must provide "collection at least once a month of source separated recyclable material... from collection service customers within the city's urban growth boundary, or, where applicable, within the urban growth boundary established by a metropolitan service district."

Program Elements

The program element requirements in ORS 459A.007 supplement the general requirements and consist of a menu of elements. Examples include weekly on-route collection of recyclables from different categories of collection customers (residential, multifamily, commercial), expanded depots for recycling, variable collection rates to encourage waste reduction, food waste collection and composting systems, etc.

Cities with populations over 4,000 (and the counties representing the unincorporated areas within the cities are required to select a set number of elements that vary this menu by population and location.

1

Materials Acceptance Lists: Rule Concept

(Part One)



State of Oregon Department of Environmental Quality

Rule Concept: Recycling Material Acceptance Lists, Part One

Plastic Pollution and Recycling Modernization Act (SB 582, 2021) Rulemaking Advisory
Committee Meeting 3 of 5, Rulemaking 1

Oct. 27, 2022

Background

The current rulemaking will establish Oregon's first statewide recycling material acceptance lists. This memo provides initial draft rule concepts regarding the placement of many materials on two separate material acceptance lists:

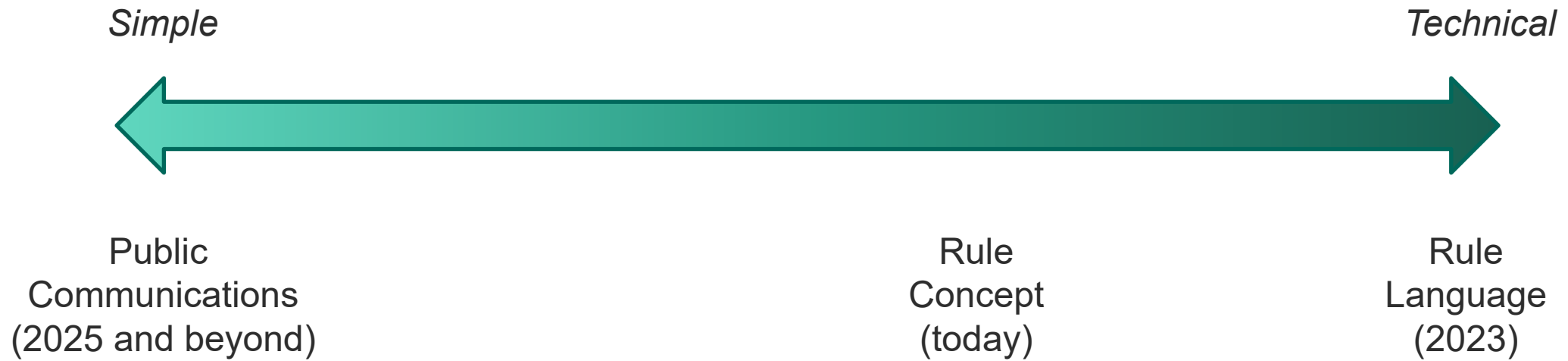
1. The **Local Government Recycling Acceptance List**, containing materials that regulated local governments providing recycling service under the Opportunity to Recycle Act must provide recycling opportunities for (potentially at on-route collection, depots, or both), and
2. The **PRO Recycling Acceptance List**, containing materials that producer responsibility organizations commonly known as/or PROs must provide additional collection and recycling opportunities for, such as at depots.¹

Establishing and changing material acceptance lists

The Plastic Pollution and Recycling Modernization Act provides for several methods for establishment of and adjustments to acceptance lists. All of these mechanisms allow for adaptability and changes to collection services over time.

- **Rulemaking:** Both local government and PRO recycling acceptance lists can be changed by rule.
- **PRO choice:** PROs may collect additional materials at depots or support additional recycling opportunities.
- **Local government choice:** Local governments may collect additional materials, such as batteries or textiles, through their local collection programs, so long as materials not on the Uniform Statewide Collection List (a subset of the Local Government Recycling Acceptance List) are not added to commingled collections.
- **PRO Program plan:** ORS 459A.914(4)(b) creates an "on-ramp" for adding materials to the Uniform Statewide Collection List (USCL). A PRO may propose, via its program plan or plan amendment, a change to the USCL. That proposal is subject to all the standards for review of a program plan or plan amendment, including public comment and review by the Oregon Recycling System Advisory Council. DEQ may accept or reject the proposal; acceptance results in the material being added to the USCL.

Level of Detail



Proposed Local Government Recycling Acceptance List (partial)

Uniform Statewide Collection List:

- Corrugated cardboard (uncoated and recycle-compatible coated; clean pizza boxes OK)
- All kraft paper (paper bags, mailers)
- Paperboard packaging (e.g., cereal, cracker and medicine boxes)
- Molded pulp packaging (e.g., egg cartons, but not food serveware)
- Polycoated cartons (e.g., milk cartons), aseptic cartons, and polycoated paper cups
- Tissue paper used as packaging (not facial or sanitary tissue)
- Non-metalized gift wrap
- High-grade office paper (e.g., white and colored ledger)
- Newspaper/newsprint
- Magazines, catalogs and similar glossy paper
- Telephone directories
- Other printing and writing paper (e.g., envelopes, “junk mail”, cards)
- Paperback books
- Aluminum food and beverage cans
- Steel cans, including empty/dry paint cans
- Scrap metal less than 10 pounds in weight and 18 inches in length; excluding sharp items and “tanglers” (e.g., bicycle chains, wire)
- Plastic bottles and jugs, 6 ounces and larger, made of clear PET (#1), natural or colored HDPE (#2) or LDPE (#4), or clear or colored polypropylene (#5) (caps OK if screwed on)
- Plastic tubs (e.g., cottage cheese), 6 ounces or larger, made of PET (#1), HDPE (#2), LDPE (#4), or polypropylene (#5)
- Any plastic buckets, pails, storage containers and other bulky HDPE (#2) or polypropylene (#5) plastic packaging that fit loosely in the provided on-route collection container
- Clear plastic cups, made of PET (#1) or polypropylene (#5), but no other plastic food serveware

At depots only:

- All scrap metal (including scrap metal on the USCL)
- Motor oil

Discussion



Lunch Break



Public Input Period

**Please message
Roxann Nayar in the
chat if you would like to
provide input**



Proposed PRO Recycling Acceptance List (partial)

- Steel and aluminum aerosol packaging
- Aluminum foil and pressed foil products
- Shredded paper
- Polyethylene film
- Plastic buckets and other bulky HDPE (#2) or polypropylene (#5) packaging



Discussion

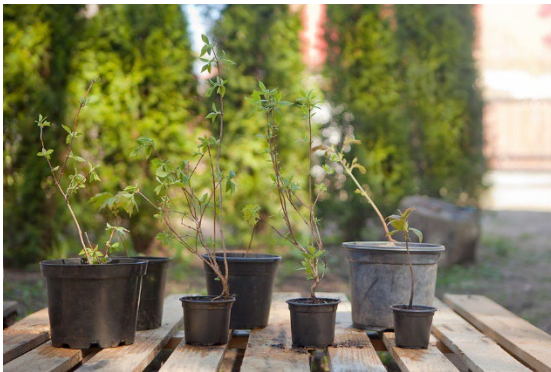


Materials Still Under Evaluation

- Glass packaging



- Plastic nursery packaging



- Block white expanded polystyrene



- PET thermoform packaging (not food serviceware)



Materials Still Under Evaluation (continued)

- Polyethylene and polypropylene lids (e.g., cottage cheese) and HDPE 4/6-pack “handles”
- Large metal appliances



- Paper “cans” with metal ends



- Single-use propane canisters



Discussion



RAC Meeting Schedule



Jan. 11, 2023

Topic: Materials Acceptance Lists
(part II)

March 10, 2023

Topics: Equity & Fiscal Impact
Statements

More information

Rulemaking webpage

oregon.gov/deq/rulemaking/Pages/Recycling2023.aspx

Email input to recycling.2023@deq.oregon.gov