



State of Oregon Department of Environmental Quality

Written Comments

Plastic Pollution and Recycling Modernization Act 2023 Rulemaking Advisory Committee Meeting 4

This document is a compilation of written comments received related to the fourth meeting of the advisory committee for the Plastic Pollution and Recycling Modernization act Rulemaking held Jan. 11, 2023.

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Metro

600 NE Grand Ave.
Portland, OR 97232-2736

Memo

Date: Wednesday, February 1, 2023
To: Oregon Department of Environmental Quality
From: Rosalynn Greene, Policy and Program Development Manager at Metro
Subject: 10-day comment period for Jan. 11, 2023 RAC meeting

The following feedback is shared in response to the last Rulemaking Advisory Committee (RAC) meeting that occurred on Jan. 11th.

1. Recycling Material Collection Lists

We support DEQ's process to implement the Recycling Modernization Act.

Oregon is one of the first states in the U.S. to require producers of packaging, paper products and food service ware to share responsibility for supporting in-state recycling programs. This is an exciting time, and we support DEQ's expertise and thoughtful multi-year process for implementation. This includes DEQ's diverse stakeholder engagement with local governments, community-based organizations representing the interests of historically underserved groups, small business, environmental nonprofit organizations, the recycling industry, collection service providers, processors and material end users and producers of covered products and producer trade associations and suppliers. While this is new for all of us, and Metro intends to continue to ask questions, review data, provide guidance and input, we have trust in DEQ's staff to lead this work and receive advisory input and recommendations from the Rulemaking Advisory Committee to move RMA forward in a timely manner, because that is what Oregonians are asking from us.

Portland Metro region wants a modern recycling system that delivers what our communities have been asking for.

The Portland metro region accounts for more than 40 percent of the state's population. We are thrilled to see recycling services expand to the rest of the state, and we want to ensure it is convenient and accessible for all Oregonians. We have engaged with Metro's Regional Waste Advisory Committee, which includes community partners, local government partners and solid waste industry to ask for their input in what they want in a modernized system. We also completed extensive community engagement through the 2030 Regional Waste Plan and currently in the Regional Garbage and Recycling Systems Facilities Plan to understand gaps in the system and how to modernize the system while centering racial equity and lessening the burden on the public. This is what our communities want:

- **Provide residents, visitors and businesses the opportunity to recycle more than our current system** and ensure they can have trust and confidence that materials are managed responsibly.
- **Communicate information that is culturally responsive and relevant, easy-to-understand and accessible** in multiple formats and languages.
- **Address barriers** – especially for people who live in apartments and people with low incomes – such as access to reliable transportation, limited English proficiency, mobility issues and disabilities and ensure that recycling is convenient, accessible, equitable and efficient.

- Grow capacity for communities and local governments to **support and encourage upstream waste prevention efforts** such as reuse and repair.
- **Leverage producer support** to move the cost of the recycling system to producers and not increase rates for the public. This includes investments to address contamination at material recovery facilities and public-facing education.
- **Invest in a stable and resilient system** that has the least disruptions to operations and produces high quality materials that meet the specifications of multiple responsible end markets.
- **Ensure items are sent to responsible end markets** where people work in safe conditions and are paid wages and benefits that support their families, and items are recycled with the least amount of social and environmental impacts. The system should also support ongoing verification and the development of responsible end markets in Oregon and the Northwest.

We are designing a recycling system for tomorrow.

Senate Bill 582 promised modernization of Oregon’s recycling system. The bill acknowledges that our recovery rates have declined in recent years, that our solid waste systems have changed in the 35 years since our first recycling programs were established, and that it is the obligation of producers to help modernize our system for the Oregon of today and tomorrow. The Act includes millions in new producer funding to address contamination and educate consumers about what is included in our recycling programs. These new, robust resources will help drive down existing challenges with contamination and consumer facing education.

To deliver on this promise, we encourage the Department of Environmental Quality (DEQ) to continue examining all the facts, studying the capabilities of the recycling industry and deliver the robust, modern, and responsible recycling program that Oregonians across the state are demanding. Specifically, we support a Uniform Statewide Collection List (USCL) that expands – not diminishes – access to the opportunity to recycle for our community members. We understand some of the proposed materials will create challenges for the *current* system to process, but DEQ has presented evidence that those challenges can be overcome through modernization and improved technology and that responsible end markets do exist.

The longstanding recycling acceptance list throughout the Portland Metro region is substantially similar to the list currently being proposed by DEQ. Some materials – such as shredded paper and aerosol cans – are proposed to be removed and some materials – such as clear plastic cups, paper cans and poly coated cups – are proposed to be included. These adjustments will result in small incremental change for many Oregonians, continuing to leave households with limited opportunities to recycle many of the packaging items thrust upon them as consumers. Our community members are demanding more access to responsible recycling, more opportunity to recycle from their homes and more shared responsibility with producers for waste products our households and communities manage.

We are not designing a recycling system for yesterday – we are designing a recycling system for tomorrow. We implore DEQ to carefully consider additional materials for the proposed USCL, ensuring accountability and responsibility from producers. That is how we will deliver a modern recycling program to the 4.2 million Oregonians that call our state home – and that is what the Plastic Pollution and Recycling Modernization Act promised.

2. Convenience Standards, Collection Targets and Performance Standards for PRO Recycling Services

Background

DEQ proposes using the term “collection point” to refer to a single location where any member of the public may bring a material for recycling, and DEQ proposes establishing a minimum standard for collection points for different materials in rule, not a minimum number of physical depots. Our understanding of the proposal is collection points could include return-to-retail locations and mobile collection events, in addition to depots.

Preliminary assessment

DEQ’s proposal seems to include a sufficient minimum number of collection points for materials on the PRO acceptance list for the tri-county area. However, the current proposal may not achieve the best distribution of those collection points because it takes a jurisdiction-by-jurisdiction approach. The following comments and recommendations reflect Metro’s preliminary assessment and understanding of DEQ’s proposal.

- In the Metro wasteshed, the rule concept proposes a minimum of 33 collection points for the 5 materials on the basic convenience list and 42 collection points for the 5 materials on the enhanced convenience list. We understand this to mean the PRO(s) could choose to build a total of 42 collection points in the Metro wasteshed to collect all materials on both lists, or if they build one collection point for each material on each list, they would have to build a minimum of 375 collection points. Of course, it is unlikely the PRO(s) would opt to develop 375 collection points, so the actual number is likely to be in between those two extremes.
- For cities within the Metro boundary, the rule concept proposes at least 27 basic collection points and 35 enhanced collection points. The area within the Metro boundary is 408 square miles in size and has a population of around 1.7 million.
- DEQ’s proposal allocates depots to cities and counties according to population thresholds. With this approach, cities with large populations are allocated more depots. For the tri-county region, the proposed allocation of depots results in 35 of the proposed 42 depots for materials on the “enhanced convenience” list located in cities within the Metro boundary. All other depots in cities outside the Metro boundary would be in Clackamas County (Canby, Estacada, Molalla and Sandy).
- Under DEQ’s proposal, there are no requirements for basic or enhanced convenience collection points in unincorporated areas of Clackamas County and no collection points for enhanced convenience materials in unincorporated areas of Multnomah County. In Washington County, the PRO(s) would be required to provide at least 2 additional collection points for basic materials and 3 for enhanced convenience materials *in addition to* the required number of collection points in cities, but there is no requirement for the PRO(s) to locate these additional collection points in unincorporated areas. DEQ’s proposal, under IV(6) (Collection point distribution), also requires PRO(s) to distribute collection points more evenly in cities that have more than one required collection point, “so that no major sections of the city lack convenient service relative to other areas of the city.”

Comment #1: System inefficiencies

While DEQ's proposal gives PRO(s) flexibility in meeting the minimum collection points requirements, it runs the risk of creating an inefficient network of more collection points than are truly needed for convenience, as opposed to creating incentives for PRO(s) to consolidate collection of materials in as few as possible, one-stop shop and strategically located collection points such as multi-material depots. Metro often hears from residents and transfer station customers that more convenience to them means being able to bring multiple materials to a single location. Inefficiencies of this approach include:

- Forcing competition between the PRO(s) and local governments who are considering building up their depot infrastructure to collect materials on the USCL list and other priority materials (e.g., reuse, HHW), as well as with other product stewardship programs, for scarce land, especially industrial land, to be able to build convenient collection infrastructure.
- Inconvenience to customers who prefer facilities that accept most or all the materials they need to dispose of.

Recommendation #1:

- DEQ could add financial or regulatory incentives in rule for PRO(s) to consolidate collection points into as few depots as possible, preferably existing depots and collection points. Could DEQ, for example, add consolidation of infrastructure as a criterion to evaluate the PRO(s) stewardship plans?
- DEQ could provide incentives for PRO(s) to work with local governments and with other product stewardship organizations to collect materials from different programs in as few places as possible. Could DEQ, for example, evaluate the PRO(s) stewardship plans in terms of how well they implement local government SWMPs and how well they achieve efficiencies by working with local governments and other product stewardship programs to collect multiple materials in the same locations?
- DEQ could commit to building a framework or strategy for coordination among PRO(s) from different product stewardship programs and local governments for the siting and development of collection points.

Comment #2: Improving distribution of collection points

DEQ's proposal focuses on allocating collection points to jurisdictions based on population, and as described above, the approach favors cities with higher population and cities within the Metro boundary, in the case of the Metro watershed. The proposal does not set specific requirements for the PRO(s) to distribute collection in terms of proximity to each other (except in cities with more than one required collection point) to achieve maximum coverage. For example, in the Metro watershed, with the minimum requirements focused heavily on cities within the Metro boundary, you can have 2 or more depots within 2 minutes of each other, while unincorporated areas further away from cities will be unlikely to have a depot located nearby, such as in unincorporated areas around Orient and Boring in east Multnomah and Clackamas counties, and in areas in and around Banks and North Plains in Washington County.

Similarly, counties that are adjacent to each other and that have large, less densely populated areas in between, are likely to have no collection points near those areas. For example, the nearest collection point for unincorporated areas around Mt. Hood will be in Sandy and Hood River.

In urban areas where multiple cities and unincorporated areas are adjacent to each other, the optimal distribution of collection points for convenience would attempt to minimize driving times or distance for all or a majority of the population.

Recommendation #2:

- In the “Collection point distribution” section of the rule concept, add performance metrics that incorporate driving time or distance to collection points. King County, for example, has a performance target for their facilities of having 90 percent of the population within a 30-minute drive of a transfer station. Recycle BC reports having an infrastructure network where 98% of the British Columbia population are within a 30-minute drive (urban residents) or 45-minute drive (rural residents) from a depot.

Comment #3: Mobile collection events can complement, but not substitute, for permanent collection points

Household hazardous waste collection and bulky waste collection events have been mentioned as possibilities for counting as collection points. These events tend to be very well attended and offer convenience for people, particularly in areas where there are not permanent facilities nearby.

However, given the feedback Metro has received over the years, collection events are no substitute for permanent facilities that are open more hours, especially during the weekend.

Collection events do not tend to happen on a regular schedule and only offer service during a few hours of the day in which they are held. As a result, some events tend to be so popular that they result in long lines and wait times for customers. Collection events also collect fewer materials in one spot than permanent facilities.

Recommendation #3:

- Collection events should be considered as complementary to the minimum collection points proposed in the rule concept, but not as one-to-one substitutes. If collection events are considered as complementary collection points, the rule concept should require PRO(s) to follow industry best practices that enhance convenience for customers, including:
 - Predictability: Mobile collection events that occur at a fixed set of locations at the same times of the year are more predictable and therefore more convenient. For example, the PRO(s) could contract with location A to have a collection event in their parking lot every other Wednesday from 4-6 pm throughout the year.
 - Visibility: Mobile collection events should be widely advertised, and a set schedule should be available to customers online well ahead of time (for the whole year, for example).
 - Partnerships: PRO(s) should partner with community-based organizations to enhance convenience for underserved populations (low income, elderly, chronically ill, etc.). PRO(s) should establish contracts that fairly compensate community-based organizations for their services, expertise, staff time, and physical space for conducting collection events.

Comment #4: Terminology used for our region

This is a minor comment, but we request that DEQ refrain from using the “Metro region” to refer to the tri-county area because of optics and because it generates confusion between the area within Metro’s jurisdiction/boundary and the wider tri-county area.

Recommendation #4

When referring to the whole of Clackamas, Multnomah and Washington counties, DEQ could use either of the following terms:

- “metro tri-county region” [metro with lower case “m”]
- “Portland tri-county area”
- “metro watershed” [metro with lower case “m”]

Comment #5 Price premium

Metro supports DEQ’s proposal for defining “where possible,” including the “price premium” element. The many benefits of reducing “travel to multiple sites” cannot be understated. Public benefits from reduced travel include but are not limited to reductions in fossil-fuel vehicle miles traveled and subsequent reductions in congestion, traffic injuries, and the greenhouse gas emissions that drive climate change and pollution.

Recommendation #5

DEQ should include additional reasons for the price premium. These reasons should be reflected as justifiable increases in the premium price %.

- Additional costs experienced by urban, local government owned facilities. Based on Metro’s experience as the owners of Metro South and Central Transfer Stations, there are significant costs associated with expanding or otherwise incorporating additional collection responsibilities at an existing facility that serves so many customers.
- Existing facilities, especially sited in urban areas such as the Metro region, face additional challenges to expand or relocate to a larger site. There can be a tremendous range in these costs. In September 2022, a Metro Property Specialist found that the range of values for commercially zoned land is reasonably estimated at \$650,685 to \$1,674,757 per acre and industrial zoned land was lower, at \$432,000 per acre to \$1,400,000 per acre.
- If the DEQ proposed “marginal (additional) costs associated with collection of the additional material(s)” does not include a marginal percent of the capital and ongoing operating costs needed to collect the additional materials, such as expanding the site footprint, on-site staffing, equipment maintenance and replacement, all development costs including local application and permitting fees, Metro recommends these additional costs are incorporated in order to fulfill the law’s intent to prioritize this type of facility site.

DEQ should implement the premium in a way that:

- Does not inhibit the PRO collection point obligation from being fulfilled through curbside service. Curbside service collection points should be included as eligible for the “premium” because curbside collection is the best at helping waste generators not “travel to multiple sites.” The minimum frequency to qualify for the premium should be once a month curbside service.
- Identifies facilities that qualify for the premium as clear winners compared to facilities that do not qualify for the premium. The premium for travel-reduction achieving facilities may need to be substantial (over 175%) to achieve this outcome.

3. Additional requirements related to recycling acceptance list

DEQ’s proposal for adequate yield is at least of 60% of each material gets recycled. Even though 60% is greater than half, it seems too low, and we are recommending 75%. An alternative suggestion is DEQ could set a schedule for assessing adequate yield and increasing the percentage rate overtime.



January 26, 2023

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

Re: extended comment period for January 11th RAC meeting through Feb. 1

Thank you for the opportunity to provide comments in response to the last Rulemaking Advisory Committee (RAC) meeting on 1/11/2023.

- At the beginning of the 1/11/2023 meeting, numerous comments were made by RAC members reiterating concerns about the capacity of MRFs and processors to manage the inclusion of various items on the Uniform Collection list. Concerns about processing specific items on the list do not speak to the transformative nature of SB 582. We want to reinforce that the RMA supports investment in MRFs and although there may currently be barriers to processing some of the materials on the proposed list, **technological solutions to those barriers exist and they must be incorporated in order to modernize our recycling system. For this reason, we strongly support the proposed Uniform Collection list as-is.**
- Concerns were also voiced around the complexity of the list, and how this may impact public education on accepted materials. Our position related to those comments, using Eugene as an example, is that we have observed that even robust public education in a community with what is currently a relatively short list of accepted materials does not result in significantly less contamination or public confusion around recycling than cities with different strategies or more complex lists. The RMA supported investment in recycling outreach and education is very important—however, a functioning recycling system in Oregon will require an investment in how materials are processed and **processors should incorporate technological solutions that can accommodate contamination because our recycling system will always be utilized by residents with varying levels of understanding about what can be recycled.**
- As DEQ is considering depot operating hours, we think collection sites should be accessible to residents a minimum of 4 days per week, with at least one of those days being a Saturday or Sunday, and that they be open at least 8 hours per day. We also strongly encourage DEQ to require staffing at depots collecting any of the materials on the list. Unstaffed depots will invite vandalism, illegal dumping and contamination. Staffed depots will **not only screen and manage materials appropriately but will provide users with information on proper recycling or disposal options and help promote public awareness of the PRO acceptance list.**



- Although it appears that the RMA does not directly address PRO collection point/depot worker health, equitable pay, and safety, we feel it should. Depots are a part of the proposed system and one in which play a role in ensuring that the system functions. Depot workers would play a role in contamination reduction and public education and will help depots meet the standards outlined in the RMA. Safe, living wage jobs will attract and retain workers, contributing to the overall health of the recycling system, and as DEQ considers whether household hazardous waste facilities be included as existing depots: In Lane County, HHW services are provided by county staff. Without living wage requirements for depot workers, it is possible that existing HHW facilities and transfer stations staffed by public employees may be financially less attractive for PROs to consider contracting with for collection services.



February 1, 2023

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.

1. **First and foremost, Consumer Brands recommends an extension of the current deadlines guiding the Rulemaking Advisory Council process.** The universal, overarching goal for the Plastic Pollution and Recycling Modernization Act and its implementation is to establish a sustainable, feasible recycling system that does not overly burden the people of Oregon with cost or responsibility. We believe that a program carrying each of these elements cannot be implemented overnight and will require research, ample discussion, and extensive attention to detail. As of this moment, the RAC process has been rushed and continually advanced regardless of whether key issues have been researched or addressed. We would like to request the DEQ consider an extension of time to either the rulemaking process, the statutory deadlines, or both. An extension to the process may allow the DEQ to explore recurring problems and engage stakeholders to create more robust solutions without applying increased pressure to Oregon's citizens.
2. **Recycling Material Acceptance Lists: Part One**
 - a. The proposed size threshold for curbside collection for polypropylene and polyethylene terephthalate (PP/PET) containers is six ounces. However, this would eliminate items such as yogurt cups and other recyclable containers from curbside programs. We suggest lowering the threshold to four ounces to capture those recyclable containers.
 - b. Under the **Minimum Criteria** Section (page one), there is a comment about a need for "multiple responsible end markets" for materials to be included in the Uniform Statewide Collection List. Does the OR DEQ intend to define how many would be considered multiple?
 - c. Under the **Contamination Reduction, User Behavior and Material Recovery Facility Regulation** Sections (page two), minimal direction exists for the collectors/local agencies to tackle contamination. It implicates the entire burden of contamination management on producers, either through P&E or at the MRF. If contamination isn't addressed at the curb, then it will never improve at the MRF. The existing legislation



- provides negligible incentives for Materials Recovery Facilities to adapt over time to improve contamination management.
- d. Thermoform containers are not currently recommended to be included as recyclable. We believe this applies to clamshell containers, which are valuable for collection and food-grade recycled content, and excluding this format could greatly reduce market availability of recycled content. We are also concerned that the term “thermoform” is not clearly defined. Without a specific definition, a broad interpretation could rule other recyclable formats out from being deemed recyclable.
- 3. Recycling Material Acceptance Lists: Part Two**
- a. Under the **Additional Considerations for Glass Packaging** Section (page nine), it is stated that “local governments are eligible for compensation from the PRO for transporting glass more than 50 miles to a processor or responsible end market.” We strongly advise including language requiring these to be full loads.
 - b. The fifth bullet under this same subsection indicates that the expansion of OR’s bottle bill will result in “less [glass] will be separated for collection via local government (or PRO) programs. Less collection translates into less recycling, and lower environmental benefits”. While wine and liquor bottles being moved to a deposit program will reduce the on route collection, it is likely that a greater environmental impact will be placed on the entire system as more is collected through existing deposit redemption sites.
- 4. Convenience Standards, Collection Targets and Performance Standards for PRO Recycling Services**
- a. In Section I. **Rule concepts for discussion: Collection Targets generally** (page three), bullet three provides the guidance that estimates of generation should rely on multiple data sources and not solely sales data. While we agree that multiple data sources should be considered, all existing data sets have known limitations. In principle, sales data will provide the most accuracy; the existing language appears to prevent producers from only using sales data. We would appreciate clarification on why sales data specifically is eliminated and how much weight the DEQ expects producers to give to other data sources.
 - b. Regarding bullet four under the same section, it states “Only materials targeted for collection shall count towards the calculation of the numerator in the collection target.” It then cites the example of window glass as one which shall not count. However, once the glass is broken, there is no way to know what percentage of the broken glass is window glass. An expectation to sort out packaging from non-packaging glass contaminants is not feasible.
 - c. In Section II. **Rule concepts for discussion: Material-Specific Collection Targets**, several materials have received the future designation of “DEQ to approve targets.” There are a wide range of material types which will present varying degrees of performance, especially when collected through depots. As a result, we strongly recommend against the expectation that these materials have similar targets.
 - d. In Section III. **Rule concept for discussion: Defining “existing recycling depots or drop off centers” and “where possible” (ORS 459A.896(1)(a))**, (page six), the OR DEQ proposes to set a “price premium (1## percent)” for existing recycling depot operators to meet the new PRO needs and is seeking feedback on “the numeric value of the price premium.” This value should not be specifically set in a rule, as price premium should be dynamic based on the cost for the PRO to set up its own recycling depot.



- While some costs may be uneven, it is better that the price premium reflects the local circumstances rather than exists as a fixed number.
- e. Under the **Notification of changes and continuity of services** section, bullet 10 indicates that if a recycling depot “no longer meets any of the conditions in Rule Concept III(1)(a) – (e), the PRO shall not discontinue service at that site until the earliest of a) the expiration of its contract with that site operator; b) the end of the existing Program Plan period; or c) mutual agreement by both parties”. We are unclear as to why a PRO would continue to fund a site if it’s not meeting the expected service standard and/or why the PRO must mutually agree with the recycling depot.
 - f. Under the Staffing at collection points Section, it indicates that “operators of existing programs might utilize a variety of techniques to achieve quality outcomes without requiring on-site staffing during all hours of operation.” We request clarification on whether this is also applicable to new depot operator.
 - g. There should be an exemption or alternate solution appeal process for PRO to dispute the required number of depots in a given city/county if there ends up being an inability to staff a remote location, or if the material collected to operating cost ratio is not sustainable.

5. Additional Requirements Related to Recycling Acceptance Lists

- a. In Section II. **Rule concept for discussion: “Adequate yield” (responsible end markets)**, bullet four states the “Calculation of yield shall exclude any contaminants”. How does OR DEQ envision measuring this? Alternatively, is the expectation that the PRO will determine the approach? In typical cases, the yield is determined by the end market based on the weight of bales purchased versus the actual yield after their processes. The weight of bales would include the contaminant weight, which would be considered part of the yield loss. For example, a paper mill can buy 10 tons of cardboard bales and after pulping it, get about nine tons of useful fiber. The ton loss is the result of a combination of contamination and normal processing losses.
- b. Regarding fees imposed on covered products sold or distributed in this state that are not accepted by recycling collection programs in this state, we advocate for the fees assessed on these materials to exclusively be used toward research and development or innovation to be able to accept these materials. For example, manufacturers of cheese packaging in layered polyethylene film are working to decrease the number of layers and polymer types to be recycler ready, but due to food contamination and current MRF technology, we are essentially paying a tax on unrecyclable packaging. Also, consumers are also paying landfill costs.

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. Please feel free to reach out with any questions.

Respectfully,

Lauren Janes
Specialist, Packaging Sustainability
Consumer Brands Association



We Feed You

Food Northwest Comments

RAC Meeting #4

Food Northwest is submitting the following general comments and specific comments on topics discussed at the fourth meeting of the Recycling Modernization Act Rules Advisory Committee. As we have outlined below, Food Northwest continues to have serious concerns about the speed of the process and the structure and viability of the overall program as we understand it.

General Comments Following Four RAC Meetings

We continue to have serious concerns about the RAC process. Clearly, we are not the only organization with serious concerns. The discussion at the last RAC meeting clearly outlined the broad dissatisfaction among committee members and the need to seriously consider slowing the RAC process down and allowing for further in-depth discussions among the interested parties on the specifics of the program and the optimal path forward.

The potential for a major misfire in the implementation of this program is becoming very obvious. We are asking DEQ to put on the brakes and consider how to bring all of us together to begin solving problems rather than having a mostly one way conversation without any meaningful input into the design of the program.

Here are our specific comments on the agenda items presented in the third RAC meeting:

Issues Pertaining to the Acceptance Lists

- For products not accepted by recycling collection programs in the state which are covered products under the law, we would like to see the fees assessed on these products be earmarked for research and development efforts that would help fund the effort to find alternatives that will be recyclable under the program.
- We would also like to see an appeal process or some off ramp for a PRO to required number of depots in a city or county when the city or county is unable to staff a location. This is critically needed in rural areas where operating costs make the staffing of a depot unsustainable.

Thank you for the opportunity to submit our comments. We look forward to continuing the conversation.

Craig Smith
Food Northwest

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

Feb 1, 2023

Oregon DEQ
RMA Rulemaking Advisory Committee
Agency Staff

RE: OBI Comments Following RAC 4

Overview Challenges and Request for Timeline Extension

Thank you for the opportunity to participate on the RAC for the Recycling Modernization Act of 2021. OBI supports the successful rulemaking process and implementation of the Act. We are however greatly concerned that the pace and timelines currently guiding the rulemaking process will not, in fact, result in the successful implementation of the Act.

OBI believes that the volume and complexity of rulemaking components, combined with inadequate time to analyze the real-world aspects and interrelationship of those components, will only result in an overly complicated, unnecessarily expensive, and ultimately, functionally unworkable program. As noted, we believe a significant part of this challenge is the speed of the RAC process.

From OBI's perspective, it seems that RAC glide-path determinations have already been made at the Agency level, and the pace and complexity of those determinations make it virtually impossible for Advisory Committee members to fully analyze, research or understand the wider implications. Simply put, the process is moving too quickly. For this program and Act to ultimately succeed at the system level, RAC members must be able to understand and fully vet operational components. If that does not happen, then it is a virtual certainty that the system will fail from a cost, complexity, workability, and consumer behavior perspective.

As such, OBI respectfully requests that the pace slow, the timelines be extended, and that the RAC components be presented to Advisory Committee members in a fashion that fully acknowledges the role those members have in the functional success of the program. Toward that, as a start, we request that the Agency work with the Advisory Committee members to find a mutually agreed upon date certain extension of the rulemaking process.

Detailed Functional Components and Concerns

- Regarding fees imposed on covered products sold or distributed in this state that are not accepted by recycling collection programs in this state - we would

advocate for the fees assessed on these materials to exclusively be used towards research and development or innovation to be able to accept these materials.

- There should be an exemption or alternate solution appeal process for PRO to dispute the required number of depots in a given city/county if there ends up being an inability to staff a remote location, or if the material collected-to-operating cost ratio is not sustainable.
- The proposed size threshold for curbside collection for polypropylene and polyethylene terephthalate (PP/PET) containers is six ounces. However, this would eliminate items such as yogurt cups and other recyclable containers from curbside programs. We suggest lowering the threshold to four ounces to capture those recyclable containers.
- Thermoform containers are not currently recommended to be included as recyclable. We believe this applies to clamshell containers, which are valuable for collection and food-grade recycled content, and excluding this format could greatly reduce market availability of recycled content. We are also concerned that the term “thermoform” is not clearly defined. Without a specific definition, a broad interpretation could rule other recyclable formats out from being deemed recyclable.

Recycling Material Acceptance Lists, Part One

- Under the Minimum Criteria Section (Page 1), there’s a comment about a need for “multiple responsible end markets” for materials to be included in the Uniform Statewide Collection List. Does the OR DEQ intend to define how many would be considered “multiple”?
- Under the Contamination reduction, User behavior and Material Recover Facility Regulation Sections (Page 2), minimal direction exists for the collectors/local agencies to tackle contamination. It seems to put the full burden on producers to manage contamination, either through P&E or at the MRF. If contamination isn’t addressed at the curb, then it’ll never improve at the MRF.

Recycling Material Acceptance Lists, Part Two

- Under the Additional Considerations for Glass Packaging Section (Page 9), it indicates that “local governments are eligible for compensation from the PRO for transporting glass more than 50 miles to a processor or responsible end market”. There should be language clarifying that these must be full loads.
- The 5th bullet under this same sub-section, indicates that the expansion of OR’s Bottle Bill will result in “less [glass] will be separated for collection via local

government (or PRO) programs. Less collection translates into less recycling, and lower environmental benefits”. While wine and liquor bottles being moved to a deposit program will reduce the on-route collection, it should, in theory, have a greater environmental impact on the entire system as more is collected through existing deposit redemption sites.

Convenience Standards, Collection Targets and Performance Standards for PRO Recycling Services

- For Section I. Rule concepts for discussion: Collection Targets generally (Page 3), bullet #3 indicates that estimates of generation needs to rely on multiple data sources, and not just on sales data. While multiple data sources should be considered, there are limitations with all of the utilized data sets. In principle, the most accurate will be sales data, but it seems the language prevents us from only using sales data. Need to clarify why we can't use it, and how much weight we need to give to other data sources.
- For bullet #4 under this same section, it indicates that “Only materials targeted for collection shall count towards the calculation of the numerator in the collection target”. It then provides an example of “window glass” shall not count. However, once the glass is broken, there is no way for us to know what percentage of the broken glass is “window glass.” An expectation to sort out packaging from non-packaging glass contaminants is not feasible.
- For Section II. Rule concepts for discussion: Material-specific Collection Targets, several materials have been flagged as “DEQ to approve targets”. There's a wide range of material types, and they'll have varying degrees of performance, especially when collected through depots.
- For Section III. Rule concept for discussion: Defining “existing recycling depots or drop off centers” and “where possible” (ORS 459A.896(1)(a)), (Page 6), the OR DEQ proposes to set a “price premium (1## percent)” for existing recycling depot operators to meet the new PRO needs, and is seeking feedback on “the numeric value of the price premium”. This value should not be set in a rule, as the price premium should be dynamic based on the cost for the PRO to set up it's own recycling depot. It means some may get more and others may get less, but will reflect the local circumstances rather than a fixed number.
- Under the Notification of changes and continuity of services Section, bullet #10 indicates that if a Recycling Depot “no longer meets any of the conditions in Rule Concept III(1)(a) – (e), the PRO shall not discontinue service at that site until the earliest of a) the expiration of its contract with that site operator; b) the end of the existing Program Plan period; or c) mutual agreement by both parties”. Unclear

why a PRO would continue to fund a site if it's not meeting the expected service standard and/or why the PRO must mutually agree.

- Under the Staffing at collection points Section, it indicates that “operators of existing programs might utilize a variety of techniques to achieve quality outcomes without requiring on-site staffing during all hours of operation.” Would this also apply to new depot operators?

Additional Requirements Related to Recycling Acceptance Lists

- For Section II. Rule concept for discussion: “Adequate yield” (responsible end markets), bullet #4 indicates that the “Calculation of yield shall exclude any contaminants”. How does OR DEQ envision measuring this or is the expectation that the PRO will determine the approach? In typical cases, the yield is determined by the end market based on the weight of bales purchased vs. the actual yield after their processes. The weight of bales would include the contaminant weight, which would be considered part of the yield loss. For example, a paper mills can buy 10 tons of cardboard bales and after pulping it, get about 9 tons of useful fiber. The 1-ton loss is going to be a combination of contamination and normal processing losses.

Thank you for your consideration of our i) overall and ii) detailed concerns and requests.

Respectfully submitted,



Scott Bruun, VP Government Affairs
Oregon Business & Industry



OREGON REFUSE & RECYCLING ASSOCIATION

February 1, 2023

Ms. Roxann Nayar, Oregon DEQ
700 NE Multnomah ST #600
Portland, OR 97232

Via email only: Recycling.2023@deq.oregon.gov

RE: Comments on RMA RAC #4 and Previous ORRA Input

Dear Ms. Nayar:

Thank you for this opportunity to offer comments related to the January 11, 2023, meeting of the Recycling Modernization Act (RMA) Rulemaking Advisory Committee (RAC), the fourth meeting of this committee (RAC #4).

Oregon Refuse and Recycling Association (ORRA) is the statewide trade association representing solid waste management companies in Oregon. ORRA members collect and process most of Oregon's residential and commercial refuse and recyclables, as well as operate material recovery facilities, compost facilities, and many of Oregon's municipal solid waste transfer stations and landfills. Two ORRA members – Mike McHenry and Jeff Murray – serve on the RAC, as well as ORRA's CEO, Kristan Mitchell.

Previous input from ORRA. In order to share the input ORRA has provided to DEQ outside of the RAC meetings with those attending the RAC meetings, we are attaching documents that ORRA has previously shared and discussed with DEQ:

- Responsible End Markets_Suggested Amendments for DEQ discussion October 10 2022;
- Assessment of PRO Where Possible Requirement ORRA Response DRAFT 11-23-2022;
- ORRA Principles for Materials Consideration 11-29-2022 as submitted to DEQ, and;
- DEQ Revised Materials Matrix 11-18-22 with ORRA Comments 11-30-22.

ORRA appreciates having productive discussions with DEQ about these issues, though we have not seen how ORRA's feedback will – or will not – be incorporated into any final draft rule. ORRA's goal in sharing this information formally is to ensure other RAC members and attendees understand ORRA's philosophy and goals for this process.

Comments from RAC #4. In addition to the three ORRA-related people serving on the RAC, ORRA has a larger group of members dedicated to reviewing the work of the RMA RAC. That larger group has devoted many hours to reviewing documents, discussing possible outcomes, and offering feedback, both during RAC meetings, as well as to multiple meetings with DEQ staff. The three ORRA-related people serving on the RAC each has over 30 years working on these issues, and the larger ORRA group has similar years of experience. All of this is to say we do not offer this

input without a great deal of thought, and with perspective that comes from many years of experience.

1. RAC process is moving too fast for well-rounded, valuable input. This issue was brought forward both in written comment in advance of the January 11 RAC meeting, and in discussion at the meeting itself. The pace of the RAC meetings and the amount of complex, detailed and sometimes highly technical materials the RAC is expected to review, digest, and understand in advance of the meetings, in order to have thoughtful discussions, combine to threaten the value of the RAC's input. This is leading to frustration with the process, voiced in person at the January 11 meeting and in comments submitted in advance of that meeting, and could end with a lack of support for, or even opposition to the draft rules.

The January 11 agenda was so broad that most agenda items could have supported discussion for two hours or more if RAC members had sufficient understanding to engage on each topic and adequate time to do so. Instead, the RAC hears and sees DEQ's slide presentation at the meeting, and then is asked if there are questions. That is a difficult way to generate real discussion. As an example of the cramped agenda, the discussion about proposed material acceptance lists was slated for 50 minutes. These acceptance lists are the basis for most of the rest of the implementation of the RMA – the heart of the program – and this was the last time the item was expected to be discussed. We discussed one item – paper cans – with DEQ's expectation that if we have more questions or discussion to add, we will do so through this written process, after the meeting. Many RAC members were very eager for group discussion on some of the January 11 topics, and appeared to be interested in addressing one another as subject matter experts from different parts of the system. Providing written comments outside of a RAC meeting is not the same as group discussion among committee members.

ORRA has invested hundreds of hours in the RAC process, and previous RMA work as well. To respect all RAC members who have stepped up for this process, ORRA asks that DEQ find more time to explore the important issues the RAC has been charged to consider. The topics included in the first RAC are foundational to successful implementation of the RMA. **ORRA requests that DEQ slow the process down to provide adequate time to have discussions with the full RAC with enough lead time provided for document review so that RAC members can feel more prepared for the discussion. If DEQ is unable to add additional meetings and extend the timeline for these conversations please provide the RAC with a response, prior to RAC Meeting #5, to explain why the agency is unable to do so within the statutory framework of RMA and an alternative proposal for how DEQ plans to ensure adequate time for additional conversations of the full RAC prior to issuing the draft rules for public comment.**

2. More communication - how all the "moving parts" will fit together. This leads to a second point – communication from DEQ. There is so much going on for RMA implementation – it is hard to keep up, and to understand and remember how all the moving parts will fit together. For example, in offline conversations with DEQ, ORRA members have heard that DEQ's focus is less on generator-facing contamination reduction, as DEQ does not have that personal interface with customers. Instead, DEQ's focus in these discussions is about MRF regulation, and this is

stated in the December 28, 2022, “Additional Details on Recycling Material Acceptance List, Part One” document from the January 11 meeting. Page two of that document begins with a paragraph about contamination reduction, noting that the RMA “relies on both use behavior and Material Recovery Facility regulation to manage and mitigate contamination.” The next two paragraphs of the document are troubling, and ORRA has highlighted a few points:

User behavior

Proper preparation and sorting will always be a challenge and will never be perfect. As a practical matter, DEQ expects that implementation of California’s truth-in-labeling law (which will impact most labeled products sold in Oregon), uniform acceptance lists, enhanced outreach, and well-funded generator-facing contamination reduction programming will reduce but not eliminate inbound contamination at processing facilities. While a simpler list may also reduce contamination, the evidence for this is not consistent; the City of Eugene, in its response ([hyperlinked in DEQ’s document](#)) to DEQ’s Request for Information, suggested that its efforts to simplify acceptance lists in response to China’s National Sword policy did not necessarily reduce contamination, and that many items currently considered contaminants would be recycled (thereby lowering the contamination rate) if acceptance lists were broader.

Material Recovery Facility regulation

The stronger mechanism in the Act for reducing the negative impacts of commingled system contamination on the downstream end markets and their communities is the regulation of processing facilities and new funding to comply with requirements. PROs must compensate facilities for contamination removal and achievement of permitting standards, and work with them where needed to ensure that materials flow to responsible end markets. Generator-facing elements in the Act will help to reduce contamination but do not guarantee an outcome; the only guaranteed mechanism for ensuring high outbound bale quality is MRF regulation. Not only are the mechanisms in the Act for MRF regulation stronger and more capable of achieving a guaranteed outcome, it is also easier and more realistic to control contamination via regulation of a small number of commingled recycling processing facilities than it is to change the behaviors of several million individuals.

The highlights in the User Behavior paragraph are frustrating and could be misleading, as DEQ has picked one example – the City of Eugene – yet ignored the opposite experience of others. For example, Rogue Waste in the City of Medford/Jackson County, Salem/Marion County, and Coos County all simplified acceptance lists and instituted strong additional education and found marked, statistical improvement. In Rogue’s case, their simplified list combined with targeted education, enforcement and regular contamination audits allowed them to go from a 25% trash contamination rate in their residential curbside commingle mix in March 2018 down to below 10% within 18 months.

As to the highlights in the Material Recovery Facility Regulation paragraph, this increased ORRA’s concern that DEQ’s preferred focus is on MRF regulation, and generator-facing contamination reduction efforts are viewed as little more than icing on the cake. ORRA raised its concern of hearing and seeing a limited focus on contamination reduction at the January 11 meeting, and DEQ disagreed, saying that there is more focus on contamination reduction, with corresponding funding, than ever before. However, that is not what the RAC is hearing and

seeing and maybe that is the issue – if it is this RAC’s job to set the list, and another, future RAC group will work on reducing front-end contamination, how does all of that intersect?

ORRA maintains that reducing front-end contamination is critical to successfully implementing the RMA. In January 2018, China, via its National Sword policy, banned the import of many materials previously assumed to be recyclable, and set an unachievable new contamination standard. This created an unprecedented disruption in international markets resulting in increased costs to ratepayers and unstable markets. Addressing this market crisis with a focus on how Oregon’s system could be strengthened to avoid future disruptions was the impetus for convening the conversation that culminated in the passage of the RMA.

ORRA is a staunch proponent of the shared responsibility model of the RMA, because not only it is the right approach, it is also the one that will lead to the best, most sustainable, and resilient system. More information about how all of this works together could help allay ORRA’s concerns that some of the acceptance list issues could lead to system failure.

ORRA requests that DEQ clarify, prior to RAC Meeting #5, how future rulemaking projects will intersect, including how other rulemakings could affect the work of this rulemaking. What happens, for example, if this RAC sets lists that includes acceptable material(s) that an upcoming RAC determines are not feasible, based on the expertise of their RAC process? Will there be a way to correct the lists, determined in 2023, but not effective until 2025, before implementation? If so, how? If not, why not?

3. Materials Acceptance Lists Discussion. As noted above, there was not sufficient time to complete the materials acceptance lists discussion at the January 11 meeting. The following items are the focus of ORRA, and we request more time to discuss how they might fit on acceptance lists. We would like to discuss them from a practical standpoint – if we are designing for a program in 2025, what must happen to ensure any material added to the acceptance list can be recovered by then? ORRA, as the rest of the RAC, is here in good faith, looking for positive outcomes in a modernized system, and we offer again that the best approach for some of the more marginal, or at least emerging items, is a phased-in approach.

Phasing in will allow all parts of the shared system to get prepared for the changes, make the investments, receive the needed financial support to do so, and have everything in place before materials are added to the lists. For example, at the January 11 meeting, one MRF commentator made an offer to bring material to an actual Pacific Northwest MRF to test its "MRF-ability." This kind of on-the-ground testing is the kind of work ORRA would like to see in a phased-in approach. Does it work in reality? And if not, what do we need to do to get there? ORRA is not saying "no" to materials; we are saying let's see how it works, and if it doesn't, let's fix it – but recognize that takes time, and money, and a process. ORRA does not believe in just forecasting material acceptance list changes based on where we hope to be in five years, we have to build the bridge to get there from where we are now.

Some core interests include hearing more from the folks who have experience handling these materials – from local governments, haulers, MRFs, processors, mills, and markets – on the

topics of public understanding of and compliance with proper recycling guidelines, how they may affect contamination levels, especially in commingled material streams, and how these materials behave in the system. Also, do they present any potential hazard issues when managing them from the point of accepting them from the public to the point where they become a feedstock for manufacturing new products?

ORRA recommends this approach: Begin with item #2, “Polycoated cartons, aseptic cartons, and polycoated paper cups,” from the following list, and build a model for the practical steps necessary to have those materials successfully recovered, starting in 2025 – from the generator to the end market. The RAC can then view the model and make recommendations based on the information. Once the concept is approved, the same model could be applied to the other proposed items. Based on the model, some items may be appropriate to be phased in, and some may be proven to be ready for inclusion at the start of the program changes in 2025.

Here are the items ORRA proposes for more discussion:

1. Paper “cans” with metal ends;
2. Polycoated cartons, aseptic cartons, and polycoated paper cups;
3. Nursery plant packaging;
4. Clear plastic cups made of PET or polypropylene;
5. Plastic buckets, pails, storage containers for USCL;
6. Steel and aluminum aerosol packaging;
7. Single-use liquid fuel canisters and other pressurized cylinders, and;
8. Commercial Glass – please explain why it is an option in the Metro area only, what does that mean?

4. What is evidence of markets? DEQ stated at the January 11 meeting that if RAC members have evidence to dispute why a material should not be offered to an acceptance list, to offer it. However, ORRA contends that is the role of the DEQ – noting the existence of markets is not the same as providing evidence that those markets will be accessible to Oregon’s programs in 2025.

To ORRA, evidence of markets would be shown by contract terms, delivery standards, amount of material to be delivered and on what frequency, contamination standards, pricing, time/guarantee of contract, and who pays in the system to participate in the market, if payment is necessary (PROs? MRFs? Ratepayers?). Some of the January 11 documents DEQ offered to support acceptance list decisions are written as advocacy instead of research, using conditional terms, for example: “we understand, expect, may, should, will likely, will have effective systems in place...” (See, December 28, 2022, “Additional Details on Recycling Material Acceptance List, Part One”). These terms in that document are used in a way to advocate for why a material should stay on an acceptance list, despite noted challenges; it is not a document that sufficiently details the research/evidence supporting their inclusion. We welcome more discussion on this topic, as ORRA’s position is that neither DEQ, nor RAC members, have evidence to support list decisions. Is it possible that Cascadia Consulting could dig deeper on this topic?

In closing, ORRA appreciates the work that DEQ has done, and is doing, and recognizes that many other interested parties are also working hard to implement the RMA. We all have the same end goal – implementing a complex law designed with shared responsibility at the forefront, to improve the sustainability and resiliency of Oregon’s recycling system. ORRA offers these comments in the spirit of that shared goal, and we look forward to continuing as a partner in this effort.

Thank you.

Sincerely,



Kristan S. Mitchell
CEO

Attachments:

- Responsible End Markets_Suggested Amendments for DEQ discussion October 10 2022
- Assessment of PRO Where Possible Requirement ORRA Response DRAFT 11-23-2022
- ORRA Principles for Materials Consideration 11-29-2022 as submitted to DEQ
- DEQ Revised Materials Matrix 11-18-22 with ORRA Comments 11-30-22

C: ORRA leadership
ORRA RAC Workgroup

Responsible End Markets
Suggested Amendments
October 10, 2022

Background for Suggested Changes: Responsible end markets are an important component to the RMA – all system participants want to ensure they are telling the truth when they tell customers that materials are being recycled. The question is at what point that obligation is satisfied.

ORRA recommends that the obligation is satisfied at the point where the recycling material is initially converted from its original form to a recycled feedstock – beyond that point, the material is no longer a waste, it is a commodity. The exception is for plastics (other than PET, Polypropylene and HDPE bottles), as well as Specifically Identified Materials (SIMs); they should be followed to final disposition due to the volatile nature of those immature markets.

Except for the plastics as noted and SIMs, ORRA recommends ending RMA oversight at the conversion point because the environmental impacts occur when converting the material into recycled feedstock. The conversion process removes and disposes of any remaining contaminants, and produces a recycled feedstock comparable to virgin material to be used in a manufacturing process. The RMA intended that this conversion, including any waste generated from it, would be managed in an environmentally responsible way; verifying that can be accomplished by use of a third-party audit or similar.

For those who wish to follow the trail to the final disposition, ORRA recommends using a certified third-party auditor, such as Orion Registrar, Inc., or Perry Johnson Registrars, Inc. Those so inclined may wish to follow the process to final disposition in order to showcase circularity or for some other reason – while this is of interest, it should not be a requirement for all Responsible End Markets.

For plastics other than PET, Polypropylene and HDPE bottles, as well as SIMs, ORRA agrees with DEQ's original approach, following the material from collection to final conversion to a new product containing recycled content. The reasons to continue following these plastics and SIMs to final disposition are that the collected materials and the process to convert them to recycled feedstocks are immature and less stable than the long term, traditional recycled feedstocks and markets, and the public is distrustful of claims that they are in fact recycled. Once a material has a track record of proven recycling, then DEQ should consider ending the tracking at the point of conversion. This could be a decision considered by the ORSAC to recommend to the EQC, for example.

1. Delete "recyclate" from Glossary - Current definition: A material that could be recycled, which potentially ends up as recycled feedstock in a recycled product.

ORRA understands the intent of this definition, but "could" and "potentially" are very broad and ambiguous – any discard could fit this definition. ORRA recommends replacing "recyclate" with a definition for Recycled Feedstock.

2. **Add a definition to the Responsible End Market Rule: Recycled Feedstock** – “Recycled Feedstock” is a material collected as recycling that is converted by some process into the raw material used to manufacture and produce finished goods that contain recycled content. A recycling material becomes a recycled feedstock at the point when it is converted from recycling materials.

3. **Re-define Responsible End Markets (REMs).** At what point does RMA oversight end? ORRA recommends oversight ends at the point of initial conversion of collected recycling into recycled feedstock, except for some plastics and SIMs, as noted above.

Following is DEQ’s July 20, 2022, Responsible End Markets Rule Concepts Document, page 3, in track changes, re-defining the REMs:

1. DEQ proposes to distinguish “end market” by material type in a manner that:

- a. Extends as far down the supply chain as would make a meaningful difference to the environmental, social, economic and health impacts of materials; and
- b. Encompasses a material-specific dimension, as recycling processes and their potential for environmental and human health impacts differ by material.

2. ~~Except for some plastics and SIMs, the Responsible End Market~~ For most recycling pathways ~~the end market~~ is defined as the person ~~that initially converts the recycling into a recycled feedstock, producing the recyclate. Glass and plastics for certain end uses are the exceptions.~~ SIMs, plastics other than PET, Polypropylene or HDPE bottles, and ~~For recycled plastic feedstock, recyclate to be~~ used in food and beverage applications and children’s toys, ~~DEQ proposes to~~ require accountability further downstream ~~for these reasons:~~

- ~~SIMs and plastics other than PET, Polypropylene or HDPE bottles require more oversight due to volatile markets and public distrust of recycling claims.~~
- ~~Recycled plastic feedstock to be used in food and beverage applications and children’s toys require more oversight,~~ given the potential for significant environmental and human health impacts associated with the use of post-consumer content during production—namely, the potential for toxics in finished products to be sold and consumed in Oregon.

3. ~~Following are recycling materials and how conversion would define a Responsible End Market: DEQ proposes that end markets by material type are defined as follows:~~

- a. Glass: the persons that ~~initially convert first use the glass into a recycled feedstock. in lieu of a virgin material (downstream of the beneficiation plant, if any, where bottles are crushed), e.g. a bottle manufacturer, fiberglass manufacturer, pozzolan (used to make cement and concrete) producer, etc.~~
- b. Metal: the persons that ~~initially convert the metal into a recycled feedstock. smelt the recycled material and produces ingots, sheet, coil or other materials that are subsequently refabricated into packaging or product.~~
- c. Paper: the persons that ~~initially convert the paper into a recycled feedstock. re-pulp the recycled material either into a pulp product that is sold to paper manufacturers, or to produce paper or paperboard products. In the event that the paper is used in an~~

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Commented [KM1]: Does FDA already have oversight over food/beverage containers? Does the RMA require more oversight, or is this a recommended approach not required in the RMA?

Commented [KM2]: ORRA would like to work with DEQ on the examples for each material

~~application that does not involve repulping (e.g., used to produce a wallboard product), the end market would be the entity that uses the waste paper to produce a product that is sold without further transformation or manufacturing.~~

d. Plastic: the persons that initially convert the plastic into a recycled feedstock. (typically a reclaimer) ~~that last handle flake or pellet containing recycled plastic prior to sale or transfer to another person that creates a new product either by placing it into a mold or through extrusion or thermoforming².~~ For any plastic other than PET, Polypropylene or HDPE bottles, as well as any plastic feedstock reevalates are being used to produce packaging for food and beverage applications or for the production of children's toys, the Responsible End Market is the persons that place the recycled plastic feedstock# into a mold for the manufacturer of such packaging or product.

Note: ORRA's suggestions deleted DEQ's second footnote in this section.

Assessment of PRO Requirement to Utilize Existing Infrastructure Where Possible ORRA Response 11-23-2022

Issue: ORRA has evaluated the term, “where possible” as it relates to PRO contracting with existing depots or drop off centers to expand their operations to accept additional covered product(s) for recycling.

Statutory Language: ORS 459A.896 Other duties of producer responsibility organization.

(1) A producer responsibility organization must provide for the collection and responsible recycling of covered products identified by the Environmental Quality Commission under ORS 459A.914 (1)(b), in a way that meets collection targets, convenience standards and performance standards established under ORS 459A.914, by:

- (a) Where possible, first contracting with existing recycling depots or drop off centers to provide for the collection of the covered product;
- (b) Establishing and operating other drop off centers for the covered product;
- (c) Establishing and operating collection events for the covered product; or
- (d) Making other arrangements for the collection of the covered product as described in a producer responsibility program plan.

(2) A producer responsibility organization shall, to the extent practicable, ensure that covered products collected in this state for the purpose of recovery and described in ORS 459A.869 (7) will be:

- (a) Delivered to responsible end markets;
- (b) Managed according to the hierarchy of materials management options under ORS 459.015 (2); and
- (c) Managed in an environmentally protective way through to final disposition.

(3) A producer responsibility organization may not take possession of covered products from a processor for any purpose without the written consent of the processor.

ORRA considered three scenarios of how to meet the “where possible” modifier.

Scenario 1: The PRO contracts with existing recycling depots or drop off centers to collect additional covered product(s) for recycling, both parties are willing, so “where possible” is not really a factor.

Outstanding question to be resolved for Scenario 1

- 1) Process and Timing: What is the process for PRO and existing recycling depots and drop off centers to determine whether they will contract to provide expanded depot or drop off center services? How long will the process take, from beginning discussions to contract execution?

Scenario 2: If existing depot is unable or chooses not to contract with PRO to provide expanded depot or drop off center services for collection of additional covered product(s) then PRO shall be required to:

- a. Meet all state environmental permit requirements to provide the service (ORS 459.245);
- b. Meet all local land use requirements and local permits to site a facility;
- c. Meet the same collection, convenience, permitting, and performance standards as existing depots, and;
- d. Provide staffed depots.

Outstanding questions to be resolved for Scenario 2

1) If existing depot is unable or chooses not to contract to provide expanded depot or drop off center services, will there be another opportunity to contract with PRO at some future point?

2) At what point in the process will the determination be made for which materials will be collected at depots and what will be return to retail? This could affect the decision of the existing depot to contract with the PRO.

Scenario 3: The existing depot operator wants to provide the service, but the PRO and depot operator cannot agree on terms and/or financial investment/reimbursement at current location:

- a. PRO and depot operator shall be required to meet the same collection, convenience, permitting, and performance standards, as noted in Scenario 2 above.
- b. Both PRO and depot operator shall submit documentation of costs required to provide the service. For purposes of the cost comparison, PRO and depot operator shall meet the same requirements as under Scenario 2 above. PRO and depot operator shall choose a third party to review the documentation and make a determination as to whether the existing depot must be used under ORS 459A.896(1)(a) “where possible” standard. All documentation shall remain confidential.
- c. Either party may object to the decision, and it shall be resolved by a third party arbitration, (e.g., American Arbitration Association), maintaining confidentiality of all parties. The losing party pays all attorney fees and costs.

Additional Note: ORRA has started contemplating convenience standards for depot and drop off centers. Just as in other sections of existing solid waste statutes (and other statutes, such as minimum wage laws), there should be separate requirements for urban v. rural depot or drop off center services. In rural areas, ORRA proposes that existing transfer stations should be the default depot option. In urban areas, ORRA recommends reviewing existing solid waste statutes, e.g., distance to market and population density, etc., to make convenience standards decisions.

ORRA Principles for Inclusion of a Material on the Proposed Materials Lists

Basis for evaluation: DEQ Revised Materials Matrix (11-18-2022)

11-29-2022

As a general principle, a broader list of materials results in more customer confusion and more contamination, which leads to difficulty processing materials and getting them to responsible end markets. The overall result is an increase in cost to manage the material, greater difficulty finding responsible end markets, as well as limiting available responsible end markets.

As identified by DEQ in *Rule Concept: Recycling Material Acceptance Lists, Part One* (October 27, 2022), “establishing material acceptance lists is a cornerstone for implementation of the Act. Many other elements of the Act depend on, or are informed by, the acceptance lists that will first be established by this administrative rule in 2023. The addition of any material to a recycling acceptance list results in a number of consequences.”

Successful implementation of the RMA relies on our ability to collectively work together at a pace where every Oregonian in every community across the state can be a part of a shared vision for Oregon’s recycling system to be accessible, strong, and resilient. We need to ask the question, “Do we want to go fast or do we want to go far?”

With this shared vision and responsibility in mind, ORRA offers the following principles:

Principle 1: Any material with a score of 4 or 5 (and without any 1, 2, 3) should be included on the Local Government collection lists, including the Uniform Statewide Collection List (USCL).¹

a. ORS 459A.914(3)(a-k) establishes the criteria for evaluating materials for the recycling material acceptance lists. The three criteria highlighted in **bold** below were not specifically addressed in the materials evaluation matrix:

- (a) The stability, maturity, accessibility and viability of responsible end markets;
- (b) Environmental health and safety considerations;
- (c) The anticipated yield loss for the material during the recycling process;**
- (d) The material’s compatibility with existing recycling infrastructure;
- (e) The amount of the material available;
- (f) The practicalities of sorting and storing the material;
- (g) Contamination;
- (h) The ability for waste generators to easily identify and properly prepare the material;
- (i) Economic factors;**
- (j) Environmental factors from a life cycle perspective;** and
- (k) The policy expressed in ORS 459.015 (2)(a) to (c).

According to *Rule Concept: Recycling Material Acceptance Lists, Part One* (October 27, 2022), the three criteria bolded above were “primarily evaluated via scenario modeling.” ORRA understands this work is

¹ There is one exception to this, and that is “Natural HDPE tubs and containers \geq 6 ounces,” which scored 4 and 5. ORRA proposes the multiple variations of tubs on the proposed lists require further consideration to find the appropriate collection solution for all tubs in order to meet the goal of delivering them as desired recycling materials to responsible end markets.

underway and is requesting further clarification about how these criteria will be taken into consideration and/or scored in the proposed materials list matrix.

b. With the one exception noted above, and with possible changes that may occur based on the modeling work underway, materials currently identified with a score of 4 or 5 sufficiently demonstrate they meet the rest of the evaluation criteria within the RMA [ORS 459A.914(3)(a-k)] suitable for commingled recycling collection, separate collection, on-route collection, and depot collection.

Principle 2: Any material with a score of 1 or 2 should not be included on the Local Government acceptance lists for on-route collection, or the commingled recycling program for the USCL.

a. Any material that received a score of 1 or 2 demonstrates it does not meet the evaluation criteria within the RMA [ORS 459A.914(3)(a-k)] to be added to these lists. The goal of this section of the RMA was to follow the criteria to determine how a material should be treated. Making exceptions for materials that scored poorly against the criteria defeats that goal. In particular, recommending inclusion of these marginal materials in the commingled recycling program through the USCL sets the recycling system up for failure.

b. There are pathways for materials that do not currently meet the criteria to be added to the USCL when their addition is justified, and there will be timelines for when and how those reviews occur, likely established in rule. As set forth in ORS 459A.914 and in other sections of the RMA:

1) any material can be added by administrative rule, or;

2) if a producer responsibility organization proposes via a program plan or plan amendment, subject to consultation with the Oregon Recycling System Advisory Council and approval by DEQ, covered products (any type of packaging, food serviceware, and printing and writing paper, unless exempted) can be added to the USCL.

c. ORRA does not support DEQ's recommendation for any material that received a 1 or 2 in any of the evaluation criteria within the RMA [ORS 459A.914(3)(a-k)] to be included on the USCL or collected on-route. However, it may be possible that some materials with a score of 1 or 2 are appropriate to be collected at a depot only (as a SIM?), where the PRO supports collection of the material until it is demonstrated that the material can be included on the USCL or collected on-route.

d. Any material that received a 1 or 2 that DEQ is recommending for inclusion on any acceptance list should be required to show how the material was justified for inclusion, including how detriments could be mitigated or offset by other benefits, that there are viable responsible markets, the material can be collected, sorted, and recycled effectively, and that there are environmental benefits associated with the recycling activity. DEQ has offered some of that reasoning in *Rule Concept: Recycling Material Acceptance Lists, Part One, Appendix 2: Local Government Recycling Acceptance List details, page 23-26*, (October 27, 2022). However, more discussion and review against the criteria is required before such recommendations can be supported.

Principle 3: Any material with a 3 requires further review and discussion before being included on Local Government collection lists, and in particular, the USCL.

a. Any material that scored a 3 should be required to demonstrate how, and within what time frame the material will meet the criteria at a 4 or 5 if it is intended to be included on the Local Government collection lists or USCL.

b. Any material that scored a 3 should also be required to show how the material was justified for inclusion within acceptance lists including how detriments could be mitigated or offset by other benefits, that there are viable responsible markets, the material can be collected, sorted, and recycled effectively, and that there are environmental benefits associated with the recycling activity.

Prioritizing Criteria for Acceptance List Review. For all three of ORRA’s principles, review of the materials lists should be done prioritizing some of the criteria. ORRA agrees with DEQ’s statement, “DEQ has not prioritized the criteria, although some factors are more important than others.” *Rule Concept: Recycling Material Acceptance Lists, Part One, Appendix 1: Material acceptance list evaluation criteria and methods, page 7, (October 27, 2022).* ORRA recommends the following should be priority considerations:

a. Stability, maturity, accessibility, and viability of responsible end markets should be a priority consideration.

1) This is not only a required evaluation criteria established within the RMA [ORS 459A.914 (3)(a)], but also specifically identified as a priority within Oregon’s Solid Waste Hierarchy (459.015(2)(C)(i)):

“Recycling methods and responsible end markets that displace the production of more impactful materials over recycling methods and responsible end markets that displace the production of less impactful materials.”

2) The existence of only one market for a material is not a stable, mature, accessible, or viable market.

3) The decision of whether a material should be included on a collection list should be driven by the market demand for the material, not a desire to recycle the material. For the materials on proposed materials lists, they should be actually desired by multiple end users as a valuable recycling feedstock that replaces virgin feedstock, not just capable of tolerating those materials in their manufacturing process.

b. Environmental health and safety should be a priority consideration.

1) In addition to being a required evaluation criteria established within the RMA [ORS 459A.914(3)(b)], as an agency, DEQ has identified an overarching goal and policy to reduce negative impacts to the environment and protect human health and safety. This is also identified as a priority within Oregon’s Solid Waste Hierarchy [ORS 459.015(2)(a)]:

“(2) In the interest of the public health, safety and welfare, in order to allow all entities in Oregon to produce and use materials responsibly, conserve resources and protect the environment and in order to allow all people of Oregon to live well, it is the policy of the State of Oregon to establish a comprehensive statewide program for materials management that will:

(a) Minimize the net negative impacts of materials, across their life cycle, on human well-being and environmental health, including the quality of land, air, water and ecosystems, with consideration of technical and economic feasibility.”

c. The ability for a customer to easily identify and properly prepare materials should be a priority consideration.

1) In addition to being a required evaluation criteria established within the RMA [ORS 459A.914(3)(h)], as a practical consideration, if a customer cannot easily identify a material to be included for collection, it will result in greater levels of contamination, preclude materials that can be recycled from getting to responsible end markets, and jeopardize successful implementation of the RMA. This criteria – ignored in the past – is one of the reasons Oregon’s recycling programs were threatened by China’s “National Sword.” The RMA is Oregon’s chance to correct this mistake going forward, and will result in more resilient programs.

d. The anticipated yield loss for the material during the recycling process should be a priority consideration (ORRA noted above that DEQ refers to modeling work underway on this consideration, and ORRA has requested more detail on that).

1) Discussions about setting thresholds for what qualifies as acceptable recovery need to happen on a material-by-material basis with input from affected participants, including brokers and end users of recycling feedstock. For example, if 40% of a material is recoverable, that leaves 60% residual that is bound for disposal. Is that sufficient to justify including the material in the acceptance lists? Will customers trust in a system with that level of loss? Is there a net positive environmental outcome?

2) In addition, yield is technology and facility dependent; for traditional materials such as OCC, printing and writing papers, and newspapers, plastic bottles and aluminum beverage cans, the yields are very high. For a number of materials currently under consideration for the list(s), yields may not be known, and they may vary dramatically from one facility to another. Even if one market can demonstrate acceptable yields, does that market have enough capacity to handle the potential volumes? And one market, as noted previously, is not enough to satisfy the requirement of being a stable, mature, accessible, viable market.

Recycling Material Acceptance Lists: Qualitative Evaluation Results Summary

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



At the Nov. 9, 2022 meeting of DEQ's Rulemaking Advisory Committee for Recycling Modernization Act 2023 Rules, DEQ was asked to provide documentation which cross-references DEQ's qualitative evaluation of materials and statutory criteria against DEQ's initial proposed placement of materials on recycling acceptance lists. This document is designed to satisfy that request. It duplicates Figure 2 from the rule concept: [Recycling Material Acceptance Lists \(part 1\)](#) and adds three details and updates to Figure 2 (below).

1. A new column indicates if a portion or all of a material evaluated is on either (or both) of DEQ's proposed recycling acceptance lists, is still under evaluation, or is not recommended for inclusion and no longer under consideration.
2. Color coding is added to provide a visual aid.
 - Yellow rows are those where the material (or a fraction of the material, if identified) is included in the Recycling Material Acceptance Lists (part one) rule concept recommendation for the Local Government Recycling Acceptance List.
 - Blue rows are similarly associated with the Producer Responsibility Organization (PRO) Recycling Acceptance List.
 - Green rows are included in both.
 - Rows in pink represent materials still under evaluation.
 - White rows are materials not recommended for inclusion at this time.
3. The materials recommended for inclusion or are still under consideration with scores of 1 – 3 (on a scale of 1 – 5) are highlighted with more intense colors and bold font .

Please refer to Appendix 1 of the aforementioned rule concept for additional information about individual criteria and the evaluation rubric. In summary, scores of 4 or 5 are generally positive; scores of 1 and 2 are generally negative; and scores of 3 are neutral against the stated criteria, potentially due to the presence of both positive and negative considerations. Also note that environmental and economic considerations are being evaluated separately.

Generally speaking, materials with scores of 3 or higher against all criteria were easily justified for inclusion in acceptance lists. Some recommended materials score a "1" or "2" against some criteria and in these cases, they were recommended for inclusion only where DEQ established that these detriments can be mitigated through elements of the Recycling Modernization Act, and/or are offset by other benefits (including environmental benefits, some of which are assessed separately). In all cases, DEQ has only recommended materials for inclusion if there are viable responsible markets, the material can be recycled effectively, and there are environmental benefits associated with the recycling activity. DEQ intends to

share additional information regarding selected materials at a later date.

Figure 2: Qualitative evaluation results summary

Criteria→ Material:	Stability and maturity of responsible end markets	Accessibility of responsible end markets	Viability of responsible end markets	Compatibility with existing recycling infrastructure: commingled collection and processing	Compatibility with existing recycling infrastructure: separated material collection	Amount of material available	Practicalities of sorting	Practicalities of storing	Contamination	Ability for waste generators to easily identify and properly prepare material	Environmental health and safety considerations	Policy in ORS 459.015(2)(c)	Other	Acceptance List?	ORRA Comments
Old corrugated containers (OCC) – uncoated, ex. pizza boxes	5	5	5	5	5	5	5	4	4	4	5	4		Local Government (on-route, depot, Uniform Statewide Collection List):	Meets Principle 1.
Pizza boxes	5	5	5	5	5		5	4	3	4	5	4		“Corrugated cardboard: uncoated or coated with recycle-compatible coating. Includes pizza boxes.”	Does not meet Principle 1. Subject to Principle 3. Long term market acceptance? Call it “to go” or no boxes. No freezer boxes
Old corrugated containers (OCC) – wax coated, not recycle compatible (as paper)	3	2	2	1	2	4	1	3	1	3	4	NE		Not recommended for acceptance	We’re going to get this material. How will customers know the difference between this material and recyclable OCC? What’s the solution? PROs pay for contamination and deal with it through education?
Old corrugated containers (OCC) – other coated, recycle compatible	5	5	5	5	5	5	5	4	4	4	5	4		Local Government (on-route, depot, USCL): “Corrugated cardboard: uncoated or coated with recycle-compatible coating. Includes pizza boxes.”	Meets Principle 1.
Single-wall kraft packaging (e.g., grocery bags)	5	5	5	5	5	5	5	4	5	5	5	4		Local Government (on-route, depot, USCL): “All kraft paper (such as paper bags, mailers)	Meets Principle 1.
Other multi-layer kraft packaging (e.g., paper padded mailers)	5	5	5	5	5		5	4	5	3	5	4			Does not meet Principle 1. Subject to Principle 3. Too confusing, could be paper or plastic in the middle, it’s a 1, not a 3, take it off for now
Non-poly coated paperboard packaging (e.g., cereal, cracker, cosmetic, medicine boxes)	4	4	5	5	5	5	5	4	4	4	3	4		Local Government (on-route, depot, USCL): “Uncoated paperboard packaging (e.g., cereal, cracker, and medicine boxes)”	Does not meet Principle 1. Subject to Principle 3. This material is all over the board, not all made out of the same stuff
Molded pulp packaging (e.g., egg cartons, other protective packaging)	5	5	5	5	5	5	5	4	4	5	3	4		Local Government (on-route, depot, USCL): “Molded pulp packaging (but not food serviceware)”	Does not meet Principle 1. Subject to Principle 3.
Molded pulp food serviceware (e.g., take-out “clamshells”)	1	2	1	3	4	NK	5	3	1	2	3	4		Not recommended for acceptance	
Gable-top and aseptic cartons (in mixed paper bale)	3	3	3	4	5	3	4	4	4	4	2	4		Local Government (on-route, depot, USCL): “Polycoated cartons (e.g., milk cartons),	Does not meet Principle 1. Subject to Principles 2 and 3. Depot only, PRO supported.
Gable-top and aseptic cartons (in Grade 52 bale)	3	2	3	3	5	3	2	3	4	4	2	4			Does not meet Principle 1. Subject to Principles 2 and 3. Depot only, PRO supported.

Criteria→ Material:	Stability and maturity of responsible end markets	Accessibility of responsible end markets	Viability of responsible end markets	Compatibility with existing recycling infrastructure: commingled collection and processing	Compatibility with existing recycling infrastructure: separated material collection	Amount of material available	Practicalities of sorting	Practicalities of storing	Contamination	Ability for waste generators to easily identify and properly prepare material	Environmental health and safety considerations	Policy in ORS 459.015(2)(c)	Other	Acceptance List?	
Paper cups, coated and uncoated (in mixed paper bale)	3	3	3	4	5	3	3	4	3	4	2	4		Aseptic cartons, and polycoated paper cups"	Does not meet Principle 1. Subject to Principles 2 and 3.
Paper cups, coated and uncoated (in Grade 52 bale)	3	2	3	3	5	3	2	3	3	4	2	4			Does not meet Principle 1. Subject to Principles 2 and 3.
Other polycoated packaging (e.g., some freezer and butter boxes, poly-lined deli wrap, animal feed bags) (in mixed paper bale)	2	2	2	4	5	NK	4	4	4	4	2	4		Not recommended for acceptance	This is a contaminant and will show up, how will customers know the difference between this and other accepted materials? What's the solution? Same comment for next three materials.
Other polycoated packaging (e.g., some freezer and butter boxes, poly-lined deli wrap, animal feed bags) (in Grade 52 bale)	2	2	2	3	5	NK	2	3	4	4	2	4		Not recommended for acceptance	
Other polycoated or clay coated food serviceware (e.g., take-out boxes, food boats, paper plates) (in mixed paper bale)	1	2	1	2	3	NK	2	2	1	3	2	4		Not recommended for acceptance	
Other polycoated or clay coated food serviceware (e.g., take-out boxes, food boats, paper plates) (in Grade 52 bale)	1	2	1	2	3	NK	1	2	1	3	2	4		Not recommended for acceptance	
Tissue paper (packaging)	5	5	5	5	5	NK	4	4	4	4	3	4		Local Government (on-route, depot, USCL): "Tissue paper (packaging, not sanitary)"	Does not meet Principle 1. Subject to Principle 3. Yield? Why add this now, it's not on any current list.
Non-metalized gift wrap	5	5	5	5	5	NK	4	4	2	2	3	4		Local Government (on-route, depot, USCL): "Non-metalized gift wrap"	Does not meet Principle 1. Subject to Principles 2 and 3. Very low yield material - eco modulate to encourage design for environment.
High-grade office paper (uncoated)	5	5	5	5	5	4	5	4	5	5	4	4		Local Government (on-route, depot, USCL): "High-grade office paper"	Meets Principle 1.
Newspaper, newsprint	5	5	5	5	5	5	5	4	5	5	4	4		Local Government (on-route, depot, USCL): "Newspaper/newsprint"	Meets Principle 1.

Criteria → Material:	Stability and maturity of responsible end markets	Accessibility of responsible end markets	Viability of responsible end markets	Compatibility with existing recycling infrastructure: commingled collection and processing	Compatibility with existing recycling infrastructure: separated material collection	Amount of material available	Practicalities of sorting	Practicalities of storing	Contamination	Ability for waste generators to easily identify and properly prepare material	Environmental health and safety considerations	Policy in ORS 459.015(2)(c)	Other	Acceptance List?	
Magazines and other coated paper (e.g., catalogs)	4	4	5	5	5	5	5	4	4	5	3	4		Local Government (on-route, depot, USCL): "Magazines, catalogs and similar glossy paper"	Does not meet Principle 1. Subject to Principle 3.
Telephone directories	4	4	5	4	5	5	4	4	5	5	3	4		Local Government (on-route, depot, USCL): "Telephone directories"	Does not meet Principle 1. Subject to Principle 3.
"Low grade" printing and writing paper (e.g., bulk mail, envelopes)	4	4	5	5	5	5	5	4	4	5	3	4		Local Government (on-route, depot, USCL): "other printing and writing paper (e.g., envelopes, "junk mail", cards)"	Does not meet Principle 1. Subject to Principle 3.
Shredded paper	5	5	5	2	5	2	2	4	3	5	3	4		PRO Recycling Acceptance List: "Shredded paper"	Does not meet Principle 1. Subject to Principles 2 and 3. While shredded paper is a material that can be recycled, it should be depot only. Scores are confusing, there is a lot of material available, maybe 5% by weight. Reassess and when/how?
Hardcover books (collected commingled)	4	4	4	2	N/A	2	2	4	4	5	3	4		Not recommended for acceptance	
Paperback books	4	4	5	5	5	NK	5	4	4	5	3	4		Local Government (on-route, depot, USCL): "Paperback books"	Does not meet Principle 1. Subject to Principle 3.
Clear PET bottles ≥ 6 ounces	5	5	5	5	5	5	4	4	4	4	4	5		Local Government (on-route, depot, USCL): "Plastic bottles and jugs, 6 ounces and larger: PET (#1) (clear only); natural and colored HDPE (#2) and LDPE (#4); clear and colored PP (#5)."	Meets Principle 1.
Clear PET other packaging, not thermoform (e.g., jars) ≥ 6 ounces	5	5	5	5	5	4	4	4	3	4	3	5		Local Government (on-route, depot, USCL): "Plastic tubs (e.g., cottage cheese), 6 ounces and larger: PET (#1), HDPE (#2), LDPE (#4), and PP (#5)"	Does not meet Principle 1. Subject to Principle 3. Shape - jar is like a tub, not a bottle
Pigmented/opaque PET containers (including black PET) ≥ 6 ounces	2	2	2	2	2	NK	2	3	3	3	2	5		Not recommended for acceptance	We know it is not recommended for acceptance, but what is this? Is it likely to be a contaminant based on confusion?

Criteria → Material:	Stability and maturity of responsible end markets	Accessibility of responsible end markets	Viability of responsible end markets	Compatibility with existing recycling infrastructure: commingled collection and processing	Compatibility with existing recycling infrastructure: separated material collection	Amount of material available	Practicalities of sorting	Practicalities of storing	Contamination	Ability for waste generators to easily identify and properly prepare material	Environmental health and safety considerations	Policy in ORS 459.015(2)(c)	Other	Acceptance List?	
Clear PET thermoform packaging, not food serviceware (e.g., produce boxes, egg cartons)	3	3	4	3	5	4	3	4	3	3	3	5		Tubs included in "Plastic tubs" (largely due to challenges for users in identifying thermoforms), other formats (produce boxes, egg cartons) not included and still under evaluation.	Does not meet Principle 1. Subject to Principle 3. Issues with the determination on criteria for markets from processor perspective - should be 1 or 2
Natural HDPE bottles ≥ 6 ounces	5	5	5	5	5	4	4	4	4	4	4	5		Local Government (on-route, depot, USCL): "Plastic bottles and jugs , 6 ounces and larger: PET (#1) (clear only); natural and colored HDPE (#2) and LDPE (#4); clear and colored PP (#5)."	Meets Principle 1.
Colored HDPE bottles ≥ 6 ounces	4	5	4	5	5	4	4	4	4	4	3	5		Local Government (on-route, depot, USCL): "Plastic tubs (e.g., cottage cheese), 6 ounces and larger: PET (#1), HDPE (#2), LDPE (#4), and PP (#5)."	Does not meet Principle 1. Subject to Principle 3.
Natural HDPE tubs and containers ≥ 6 ounces	5	5	5	5	5	4	4	4	4	4	4	5		Local Government (on-route, depot, USCL): "Plastic tubs (e.g., cottage cheese), 6 ounces and larger: PET (#1), HDPE (#2), LDPE (#4), and PP (#5)."	Exception to Principle 1, should not be included on USCL. More discussion, and start with all tubs go to depot. Shape is the key for USCL and on-route.
Colored HDPE tubs and containers ≥ 6 ounces	4	5	4	5	5		4	4	4	4	4	3	5		Local Government (on-route, depot, USCL): "Plastic tubs (e.g., cottage cheese), 6 ounces and larger: PET (#1), HDPE (#2), LDPE (#4), and PP (#5)."
HDPE pails and buckets	4	5	4	3	5	3?	3	4	3	4	3	5		Local Government (on-route, depot, USCL) AND PRO Recycling Acceptance List: "Plastic buckets, pails, storage containers and other packaging that fits loosely in the generator's provided on-route collection container: HDPE (#2) and PP (#5)."	Does not meet Principle 1. Subject to Principle 3. "5 gallon buckets only" as the option if on-route, people understand that term. No one knows what a pail is, don't use the term. Could be okay in a staffed depot only. Why would a PRO accept a non-covered material and who would pay?

Criteria→ Material:	Stability and maturity of responsible end markets	Accessibility of responsible end markets	Viability of responsible end markets	Compatibility with existing recycling infrastructure: commingled collection and processing	Compatibility with existing recycling infrastructure: separated material collection	Amount of material available	Practicalities of sorting	Practicalities of storing	Contamination	Ability for waste generators to easily identify and properly prepare material	Environmental health and safety considerations	Policy in ORS 459.015(2)(c)	Other	Acceptance List?
Bulky HDPE packaging/products ¹ (e.g., laundry baskets, coolers, large toys and children's furniture) (Note: products not a "covered product")	4	5	4	3	5		3	4	4	3	3	5		(Storage containers only; may be considered packaging): Local Government (on- route, depot, USCL) AND PRO Recycling Acceptance List: "Plastic buckets, pails, storage containers and other packaging that fits loosely in the generator's provided on-route collection container: HDPE (#2) and PP (#5)"
HDPE squeezable tubes (e.g., Colgate toothpaste [new], lotions/sunscreens)	4	5	4	2	5	NK	2	4	2	3	3	5		Not recommended for acceptance
LDPE rigid containers (not film) ≥ 6 ounces	4	4	4	2	5	1	2	4	4	4	3	5		Local Government (on- route, depot, USCL): "Plastic tubs (e.g., cottage cheese), 6 ounces and larger: PET (#1), HDPE (#2), LDPE (#4), and PP (#5)"
Other LDPE containers (not film) (e.g., squeezable bottles, tubes) ≥ 6 ounces	4	4	4	2	5	NK	2	4	2	3	3	5		Not recommended for acceptance
PP bottles ≥ 6 ounces	4	4	5	4	5	1	4	4	5	4	3	5		Local Government (on- route, depot, USCL): "Plastic bottles and jugs, 6 ounces and larger: PET (#1) (clear only); natural and colored HDPE (#2) and LDPE (#4); clear and colored PP (#5)."

Does not meet Principle 1. Subject to Principle 3. Not on route. Could be okay in a staffed depot only. Why would a PRO accept a non-covered material and who would pay?

Does not meet Principle 1. Subject to Principles 2 and 3. If it's a tub, add to discussion about depot collection, or PRO list. Processors don't know what this is. Examples? And why is this on the list when the squeezable is not? Will customers understand the difference?

Does not meet Principle 1. Subject to Principles 2 and 3. Growing material, MRFs think there is more than a score of 1, and there is a market. Why does it get a 3 in environmental?

¹ Referred to as "products" in the original rule concept but storage containers meet the definition of packaging.

Criteria→ Material:	Stability and maturity of responsible end markets	Accessibility of responsible end markets	Viability of responsible end markets	Compatibility with existing recycling infrastructure: commingled collection and processing	Compatibility with existing recycling infrastructure: separated material collection	Amount of material available	Practicalities of sorting	Practicalities of storing	Contamination	Ability for waste generators to easily identify and properly prepare material	Environmental health and safety considerations	Policy in ORS 459.015(2)(c)	Other	Acceptance List?	
PP tubs and other containers ≥ 6 ounces	4	4	5	4	5	4	4	4	4	4	3	5		Local Government (on-route, depot, USCL): “ Plastic tubs (e.g., cottage cheese), 6 ounces and larger: PET (#1), HDPE (#2), LDPE (#4), and PP (#5)”	Does not meet Principle 1. Subject to Principle 3. Add to tubs discussion, depot only. Too many types of plastics, consumers don't know the difference, can't be sorted effectively.
PP thermoforms, not food serviceware	4	4	5	4	5	3	4	4	3	3	3	5		Local Government (on-route, depot, USCL): “ Plastic tubs (e.g., cottage cheese), 6 ounces and larger: PET (#1), HDPE (#2), LDPE (#4), and PP (#5)”	Does not meet Principle 1. Subject to Principle 3. Example? We don't know what they are.
PP paint cans, empty and dry	4	3	4	4	5	NK	4	4	3	3	3	5		Local Government (on-route, depot, USCL) AND PRO Recycling Acceptance List: “Plastic buckets, pails , storage containers and other packaging that fits loosely in the generator's provided on-route collection container: HDPE (#2) and PP (#5)”	Does not meet Principle 1. Subject to Principle 3. No one taking on route, why don't they go to PaintCare?
Bulky other PP packaging/products ² (e.g., storage containers, laundry containers, outdoor furniture) (Note: not all “covered products”)	4	4	5	3	5	4	3	4	4	3	3	5		(Storage containers only; may be considered packaging): Local Government (on-route, depot, USCL) AND PRO Recycling Acceptance List: “Plastic buckets, pails, storage containers and other packaging that fits loosely in the generator's provided on-route collection container: HDPE (#2) and PP (#5)”	Does not meet Principle 1. Subject to Principle 3. Larger than 5 gallon bucket, so not on route. Could be okay in a staffed depot only. Why would a PRO accept a non-covered material and who would pay? Put all bulky plastics at depot.

² Referred to as “products” in the original rule concept but storage containers meet the definition of packaging.

Criteria→ Material:	Stability and maturity of responsible end markets	Accessibility of responsible end markets	Viability of responsible end markets	Compatibility with existing recycling infrastructure: commingled collection and processing	Compatibility with existing recycling infrastructure: separated material collection	Amount of material available	Practicalities of sorting	Practicalities of storing	Contamination	Ability for waste generators to easily identify and properly prepare material	Environmental health and safety considerations	Policy in ORS 459.015(2)(c)	Other	Acceptance List?
Non-bulky other PP products (e.g., DVD cases, kitchenware) (Note: not all “covered products”)	4	4	5	1	5		1	4	3	3	3	5		Not recommended for acceptance
Natural and colored PS packaging, excluding food serveware, EPS (e.g., CD cases)	3	3	3	2	5	NK	2	4	4	4	3	SV		Not recommended for acceptance
HDPE colored nursery containers (e.g., pots, trays, etc.)	3	4	3	3	5	NK	3	4	4	4	3	5		Still under evaluation: “Nursery (plant) packaging (e.g., pots, trays)” Does not meet Principle 1. Subject to Principle 3. Possibly PRO list only, no USCL. Can DEQ confirm this is intended for retail and is a covered product?
LDPE colored nursery containers (e.g., pots, trays, etc.)	3	2	3	3	5	NK	3	4	4	4	3	5		Still under evaluation: “Nursery (plant) packaging (e.g., pots, trays)” Does not meet Principle 1. Subject to Principles 2 and 3. Possibly PRO list only, no USCL. Can DEQ confirm this is intended for retail and is a covered product?
PP colored nursery containers (e.g., pots, trays, etc.)	3	4	3	3	5	NK	3	4	4	4	3	5		Still under evaluation: “Nursery (plant) packaging (e.g., pots, trays)” Does not meet Principle 1. Subject to Principle 3. Possibly PRO list only, no USCL. Can DEQ confirm this is intended for retail and is a covered product?
PS colored nursery containers (e.g., pots, trays, etc.)	2	2	2	2	5	NK	2	4	4	4	2	SV		Still under evaluation: “Nursery (plant) packaging (e.g., pots, trays)” Does not meet Principle 1. Subject to Principle 2. Possibly PRO list only, no USCL. Can DEQ confirm this is intended for retail and is a covered product?
Tub and container lids, e.g. yogurt container lids (multiple resins)	4	4	4	1	5	2	2	4	5	5	3	5		Still under evaluation “PE and PP lids” Does not meet Principle 1. Subject to Principles 2 and 3. Possibly PRO list only, no USCL. Can DEQ confirm this is intended for retail and is a covered product?
Tub and container lids, e.g. yogurt container lids <u>co-</u> collected with bottle caps (multiple resins)	4	4	4	1	5	NK	2	3	4	5	3	5		Not recommended for acceptance (caps recommended to be screwed back onto bottles)
HDPE 6-pack carriers (e.g., PakTech) (not LDPE ring carriers)	4	5	4	2	5	1	2	4	4	4	3	5		Still under evaluation: “HDPE package handles (e.g., 6-pack handles)” Does not meet Principle 1. Subject to Principles 2 and 3. Possibly return to retail.
Mixed resins small containers < 6 ounces	3	3	3	2	4	NK	1	2	3	3	3	5		Not recommended for acceptance
Expanded PS: block and sheet foam	2	2	2	1	3	3	1	2	3	4	3	SV		PRO Recycling Acceptance List: “Block white expanded polystyrene” We know this should be pink (under evaluation) not blue (PRO list). . Does not meet Principle 1. Subject to Principles 2 and 3.
Expanded PS: packing peanuts	1	1	1	1	3		1	2	2	2	3	SV		Not recommended for acceptance

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Expanded PS: other packaging and products, excluding food serviceware (e.g., coolers) (some not a covered product)	2	2	2	1	3		1	2	2	3	2	SV		Not recommended for acceptance
PE block or sheet foam	2	2	2	1	3	NK	1	3	4	3	3	5		Not recommended for acceptance
PE film and wrap (post- industrial, post-commercial, post-consumer)	4	4	4	1	5	5	1	3	3	3	3	SV		PRO Recycling Acceptance List: "Polyethylene film"
PP film and wrap	2	2	2	1	4	NK	1	4	3	3	2	5		Not recommended for acceptance
Woven PP bags (e.g., rice bags)	3	3	3	1	4	NK	1	4	4	5	3	5		Not recommended for acceptance
Multimaterial films, pouches, other flexible packaging	1	1	1	1	4	3	2	3	2	2	2	3		Not recommended for acceptance
Clear cups: PET thermoforms	3	3	4	3	5	2	3	4	3	3	3	5		Local Government (on-route, depot, USCL): "Clear plastic cups: PET (#1) and PP (#5)"
Clear cups: PP thermoforms	5	4	5	4	5	3	4	4	3	3	3	5		Local Government (on-route, depot, USCL): "Clear plastic cups: PET (#1) and PP (#5)"
Clear cups: clear PS	3	3	3	2	5	NK	2	4	3	3	3	SV		Not recommended for acceptance
Cups: rigid PS (not clear)	3	3	3	2	5	NK	2	4	3	3	3	SV		Not recommended for acceptance
Other FSW: PET thermoforms	3	3	4	3	4	4	3	3	2	2	3	5		Not recommended for acceptance
Other FSW: PP thermoforms	5	4	5	4	4	3	4	3	2	2	3	5		Not recommended for acceptance
Other FSW: expanded polystyrene	2	2	2	1	4	NK	1	3	2	2	3	SV		Not recommended for acceptance
Aluminum beverage cans	5	4	5	5	5	4	5	5	4	5	4	5		Local Government (on-route, depot, USCL): "Aluminum food and beverage cans"
Aluminum foil and pressed foil products (e.g., roasting pans)	5	4	5	3	5	4	3	4	3	2	4	5		PRO Recycling Acceptance List: "Aluminum foil and pressed foil products"

Does not meet Principle 1. Subject to Principles 2 and 3. Possibly depot, return to retail, not on route. Shrink wrap? PE

Does not meet Principle 1. Subject to Principles 2 and 3. Not on route.

Does not meet Principle 1. Subject to Principle 3.

Meets Principle 1.

Does not meet Principle 1. Subject to Principles 2 and 3.

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Steel (tin) and bi-metal cans	5	5	5	5	5	5	5	5	4	5	4	4		Local Government (on-route, depot, USCL): "Steel and bi-metal cans . . ."	Meets Principle 1.
Metal aerosol cans (should be empty)	5	5	5	3	5	4	4	4	2	4	2	4		PRO Recycling Acceptance List: "Steel and aluminum aerosol packaging"	Does not meet Principle 1. Subject to Principles 2 and 3.
Steel paint cans (non- aerosol), empty	5	4	5	5	5	NK	5	5	3	4	4	4		Local Government (on-route, depot, USCL): "Steel and bi-metal cans, including empty and dry metal paint cans"	Does not meet Principle 1. Subject to Principle 3.
Large appliances/"white goods" with refrigerants (e.g., refrigerators, air conditioners)	4	4	4	1	4	5	1	5	1	4	2	4	5	Still under evaluation: "Large metal appliances (e.g., refrigerators)"	Does not meet Principle 1. Subject to Principle 2. What is the 5 in "Other" category?
Large appliances/"white goods" without refrigerants (e.g., stoves, hot water heaters, clothes washers and dryers)	4	4	4	1	5	5	1	5	1	4	3	4		Still under evaluation: "Large metal appliances . . ."	Does not meet Principle 1. Subject to Principles 2 and 3.
Scrap metal (smaller than 30 inches and less than 30 pounds), including small metal pieces (e.g., lids, screws and nails – to be collected inside a metal can which has been crimped tightly closed)	4	4	4	2	4	5	2	5	3	2	2	5		Local Government (on-route, depot, USCL): but only a subset of materials listed here. "Scrap metal less than 10 pounds in weight and 18" in length – no sharp items (e.g., knives) or "tangles" (bicycle chains, wire, etc.). Others on Local Government depot list only.	Does not meet Principle 1. Subject to Principles 2 and 3. Safety issues, depot only.
Other scrap metal larger than 30 inches or more than 30 pounds	4	4	4	1	4		2	5	3	2	2	5		Local Government (depot only): "Other scrap metal"	Does not meet Principle 1. Subject to Principles 2 and 3.
Single-use propane cylinders (should be empty)	3	3	3	1	3	NK	1	4	2	2	2	4		Still under evaluation: "Single-use propane canisters"	Does not meet Principle 1. Subject to Principles 2 and 3. If no aerosol, no propane, safety issues.
Glass bottles and jars	5	5	5	2	5	5	2	4	3	5	5	4		Still under evaluation: "Glass packaging"	Does not meet Principle 1. Subject to Principles 2 and 3. Depot only.

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Motor oil	4	4	4	1	5	5	1	2	2	4	2	2	5	Local Government (depot only): "Motor oil"	Does not meet Principle 1. Subject to Principle 2. What is the 5 in "Other" category? Not on route, depot only. Motor oil is often an unknown mix of liquids that is hazardous waste, not solid waste. This material is better suited to be taken to a facility that can handle liquid and hazardous wastes.
Paper "cans" with steel ends (to steel mill)	3	3	3	4	4	2	4	4	4	4	4	4		Still under evaluation: "Paper "cans" with metal ends (e.g., coffee, nuts or snacks canisters)"	Does not meet Principle 1. Subject to Principle 3. More likely to end up at a paper mill.
Paper "cans" with steel ends (to paper mill)	3	3	2	2	4		2	4	4	4	4	4		Still under evaluation: "Paper "cans" with metal ends (e.g., coffee, nuts or snacks canisters)"	Does not meet Principle 1. Subject to Principles 2 and 3. Ends up at paper mill. Magnet will not likely pull it.

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