

Rulemaking Advisory Committee Meeting #4

Plastic Pollution and Recycling Modernization Act

Jan. 11, 2023
Zoom Webinar

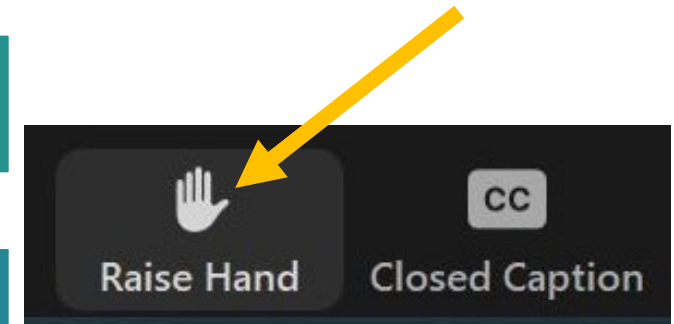
Agenda

TIME	TOPIC
9 a.m.	Welcome, Overview of Today's Meeting
9:10 a.m.	Introductions
9:20 a.m.	RAC #3 Meeting Follow-up
9:40 a.m.	Proposed Materials Acceptance Lists, Part 2
10:30 a.m.	BREAK
10:40 a.m.	Collection Targets, Convenience Standards, Performance Standards
12 p.m.	LUNCH BREAK
12:30 p.m.	Public Input Period*
1 p.m.	Collection Targets, Convenience Standards, Performance Standards continued*
1:30 p.m.	Additional Requirements Related to Recycling Acceptance Lists*
1:55 p.m.	Review meeting schedule, next steps, and adjourn at 2:00pm*

*Note: Times subject to change and topics may begin earlier than listed

Webinar Tips

- 1 Join audio either by phone or computer, not both
- 2 For panelist discussion and comments, use the raise hand button to get in the queue; if by phone press *9
- 3 This meeting is being recorded
- 4 For Zoom technical issues email stephanie.caldera@deq.oregon.gov or text 971-279-9517



Meeting ground rules

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

Introductions- DEQ Staff



Cheryl Grabham, Program Manager, Materials Management Product Stewardship Team



David Allaway, Senior Policy Analyst



Justin Gast, Natural Resource Specialist



Nicole Portley, PRO Program Plan Lead



Stephanie Caldera, Policy Analyst



Roxann Nayar, Recycling Program Analyst

Input and Engagement

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

Rulemaking 1 Timeline

We are here



Statute, rule, and program plans

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

Transportation Costs Reimbursement

ORS 459A.890(2)(a)

- The costs of transporting covered products from a recycling depot or recycling reload facility to a commingled recycling processing facility or a responsible end market...are eligible costs for funding or reimbursement by a producer responsibility organization.

Response to Select Comments

- Financial impacts
- Stationary collection points, siting and participation
- Today's reality vs. tomorrow's possibilities

Financial impacts

Not a comprehensive list

Obligation	PRO role?	This rulemaking?
Provide on-route and depot recycling services (at disposal sites) (ORS 459A.005) of designated materials	No	Partial
Promote recycling to the public (ORS 459A.005 and .007)	No	No
Conduct statewide promotion of uniform statewide list, develop outreach materials for local use	Yes	No
Fund local government expansions in collection service	Yes	Yes
Collect and recycle designated materials; meet collection targets, convenience and performance standards	Yes	Yes
Compensate local government generator-facing contamination programming, long-distance freight	Yes	Yes
Fund local government assessment of material quality (post-collection)	Yes	No
Ensure materials go to responsible end markets, etc., where practicable	Shared	Yes
MRFs comply with new permit requirements	No	No
Pay contamination management, processor commodity risk fees to MRFs	Yes	No
Administer a PRO, assess and eco-modulate membership fees, etc.	Yes	No
Pay program plan fee and annual administrative fee to DEQ	Yes	Yes
Pay waste prevention and reuse fee to DEQ	Yes	No
Achieve statewide plastic recycling goals	Yes	No

PRO Collection Points

- Primarily intended to supplement local government collections – for materials not readily commingled
- 4 types:

Existing Multi-Material Depots
(expanded)



Return-to-Retail



Single-Material Drop-Box



New Multi-Material Depot
(PRO)



Imagining the future

- Service improvements, consistency
- Culturally responsive outreach
- Expanded customer feedback (contamination reduction)
- Consistent performance standards for MRFs
- Responsible end markets
- Financial assistance and assurances
- Truth in labeling

Materials Acceptance Lists, part two



State of Oregon Department of Environmental Quality Rule Concept: Recycling Material Acceptance Lists, Part One

Plastic Pollution and Recycling Modernization Act (SB 582, 2021) Rulemaking Advisory Committee Meeting 3 of 5, Rulemaking 1
Oct. 27, 2022

Background

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

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

Establishing and changing material acceptance lists

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

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

Statutory evaluation criteria

Statute (ORS 459A.914(3)) requires the Environmental Quality Commission ("the commission") to consider the following criteria when adding materials to an acceptance list by rule:

¹ Depot collection of materials by PROs could take several different forms, including expansion of existing (local government/service provider) recycling depots, return-to-retail collection, stand-alone drop boxes collecting individual materials, and new, multi-material recycling depots.

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State of Oregon Department of Environmental Quality Additional Details on Recycling Material Acceptance Lists, Part One

Plastic Pollution and Recycling Modernization Act (SB 582, 2021)
Rulemaking Advisory Committee Meeting 4 of 5, Rulemaking 1

Dec. 28, 2022

Background

In advance of the Nov. 9, 2022 meeting of the Rulemaking Advisory Committee (RAC), DEQ published "[Rule Concept: Recycling Acceptance List, Part One](#)." That document provided DEQ's initial recommendations for materials to be included on the Local Government Recycling Acceptance List and the Producer Responsibility Organization (PRO) Recycling Acceptance List.

During and following the November meeting, RAC members requested additional information regarding DEQ's justification for acceptance of certain materials, especially those that scored a "3" or lower (on a scale of "1" to "5") against any statutory criteria in the matrix evaluation of materials. That matrix is detailed in Appendix 1 of that initial Rule Concept document.

In response to those requests, this document provides additional information regarding certain materials contained in the prior Rule Concept document and proposed for inclusion in recycling acceptance lists.

Table of Contents for Material Categories

Paper-based items	2
Plastic items	9
Metal-based items	13
Other items	16

Minimum criteria

In all cases of materials recommended for inclusion in the Uniform Statewide Collection List (suitable for commingling), DEQ understands that the material can be effectively collected and processed; there are multiple responsible end markets that are relatively stable, accessible, and viable; and there are environmental benefits of recycling the material.

Materials scoring a "3" or lower

In general, where a material recommended by DEQ for acceptance scores "3" or lower against any statutory criteria, DEQ justifies its recommendation for inclusion for one or more of the following reasons:

- The lower score can be mitigated by new policy and program elements contained in the Plastic Pollution and Recycling Modernization Act (e.g., generator-facing contamination reduction programming, material recovery facility (MRF) regulation, responsible end markets).
- There are other compelling reasons to recycle the material (such as environmental benefits), and lower scores represent challenges that can be overcome or are acceptable given other countervailing benefits.

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State of Oregon Department of Environmental Quality Rule Concept: Recycling Material Acceptance Lists, Part Two

Plastic Pollution and Recycling Modernization Act (SB 582, 2021)
Rulemaking Advisory Committee Meeting 4 of 5, Rulemaking 1

Dec. 28, 2023

Background

The current rulemaking will establish Oregon's first statewide recycling material acceptance lists. Two separate acceptance lists will be developed:

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

DEQ provided a partial set of [recommendations](#) to the Rulemaking Advisory Committee for discussion at its meeting on Nov. 9, 2022. At that time, several materials remained under evaluation and DEQ had not yet prepared recommendations for including them on acceptance lists. This memo updates the earlier document by describing DEQ's recommended placement of those outstanding materials.

Appendix 1 consolidates the recommendations from the two memos into a comprehensive recommendation for both acceptance lists. For illustrated versions of these lists in [English](#) and [Spanish](#) see a background document from the Dec. 15, 2022 Recycling Council meeting.

Concepts for discussion at Jan. 11, 2023 RAC meeting

DEQ seeks feedback from Rulemaking Advisory Committee members on the following:

I. Rule concept for discussion: Additions to the Local Government Recycling Acceptance List

DEQ is recommending that the Environmental Quality Commission, as authorized under ORS 459A.914(1)(a), designate the following materials as "materials collected to provide the opportunity to recycle." Such a designation will require regulated local governments to provide recycling opportunities for them. These materials are in addition to those recommended in a prior rule concept (dated Oct. 27, 2022). See Appendix 2 of this document for more detail about individual materials.

1. **Nursery (plant) packaging (e.g., pots, trays) made of HDPE (#2) or PP (#5)**
Recommended as required for on-route and depot collection; suitable for commingled collection (USCL)
2. **Paper "cans" with metal ends**
Recommended as required for on-route and depot collection; suitable for commingled collection (USCL)

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Proposed PRO Recycling Acceptance List

- Glass packaging
- Steel and aluminum aerosol packaging
- Single use pressurized cylinders (e.g., propane)
- Aluminum foil and pressed foil products
- Shredded paper
- Polyethylene film
- Plastic buckets, pails and storage containers (HDPE and PP)
- Block white expanded polystyrene
- PE and PP lids
- HDPE package handles (e.g., 6-pack handles)

Comparison of Commingled Acceptance Lists (pt. 1)*

	Medford	Eugene	USCL (proposed)	Portland	Seattle	Los Angeles
Cardboard	✓	✓	✓	✓	✓	✓
Pizza boxes	X	✓	✓	X	✓	✓
Newspaper	✓	✓	✓	✓	✓	✓
Polycoated cartons	X	X	✓	✓	✓	✓
Polycoated paper cups	X	X	✓	X	✓	✓
Freezer packaging	X	X	X	X	✓	✓
Shredded paper	X	X	X	✓	X	X
Other printing and packaging paper	X	✓	✓	✓	✓	✓
Aluminum/steel food/beverage packaging	✓	✓	✓	✓	✓	✓
Aluminum foil	X	✓	X	✓	✓	✓
Aerosol containers	X	X	X	✓	✓	✓

*Summary comparison only; for exact details please see DEQ rule concept (USCL) and program websites



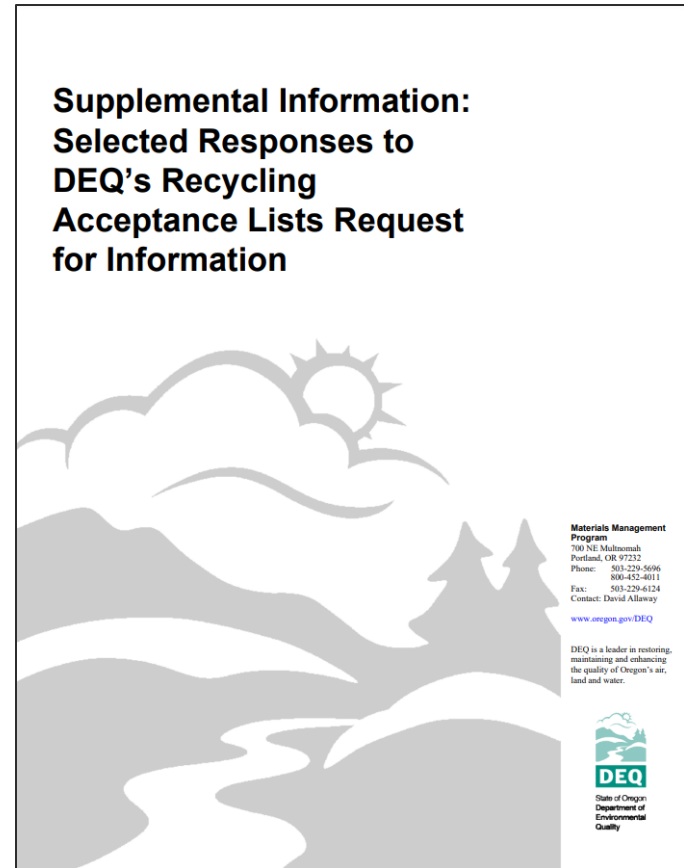
Comparison of Commingled Acceptance Lists (pt. 2)*

	Medford	Eugene	USCL (proposed)	Portland	Seattle	Los Angeles
Scrap metal	X	X	(some)	✓	✓	✓
Wire hangers	X	X	X	X	X	✓
1 & 2 plastic bottles and jars	✓	✓	✓	✓	✓	✓
Other plastic bottles and jars	X	X	(some)	✓	✓	✓
Buckets	X	X	✓	✓	✓	✓
Plant pots	X	X	(some)	✓	✓	✓
Clear plastic cups (PET, PP)	X	X	✓	X	✓	✓
Other plastic cups	X	X	X	X	✓	✓
PE & PP lids	X	X	X	X	✓	✓
PET clamshells	X	X	X	X	✓	✓
Glass	X	X	X	X	✓	✓

*Summary comparison only; for exact details please see DEQ rule concept (USCL) and program websites

Evaluation Criteria (ORS 459A.914(3))

- (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).



BREAK



Collection Targets, Convenience Standards and Performance Standards



State of Oregon Department of Environmental Quality
**Rule Concept: Convenience Standards,
Collection Targets and Performance
Standards for PRO Recycling Services**

Plastic Pollution and Recycling Modernization Act (SB 582, 2021)
Rulemaking Advisory Committee Meeting 4 of 5, Rulemaking 1

Dec. 28, 2022

Background

This memo provides background information for the Rulemaking Advisory Committee on the topic of convenience standards, collection targets and performance standards for recycling services provided by Producer Responsibility Organization(s) or a coordinating body acting on their behalf.

ORS 459A.896(1) requires producer responsibility organizations to provide for the collection and responsible recycling of covered products identified by the Environmental Quality Commission under ORS 459A.914(1)(b) (the PRO Recycling Acceptance List) "in a way that meets collection targets, convenience standards and performance standards established under ORS 459A.914 . . ." Those standards will first be established by the Commission as part of the current rulemaking (ORS 459A.914(7)).

For context, the materials currently proposed for inclusion on the PRO Recycling Acceptance List include the following:

- Glass packaging
- Steel and aluminum aerosol packaging
- Single use pressurized cylinders (e.g., propane)
- Aluminum foil and pressed foil products
- Shredded paper
- Polyethylene film
- Plastic buckets, pails, and storage containers (HDPE and PP)
- Block white expanded polystyrene
- PE and PP lids
- HDPE package handles (e.g., 6-pack handles)

PROs, as part of their producer responsibility program plan (ORS 459A.875(2)(a)(B)) are required to describe how they will manage and administer a producer responsibility program to meet their obligations under the Plastic Pollution and Recycling Modernization Act, including how they will provide for the collection of covered products on the PRO Recycling Acceptance List and how they will meet convenience and performance standards for those covered products. In their annual report (ORS 459A.887(2)(m)), PROs must provide an assessment of whether they met collection targets, convenience standards and performance standards for these materials, and efforts planned to meet or continue meeting such targets and standards.

Quarterly reporting on material disposition is required by ORS 459A.887(6), and responsible disposition is required by ORS 459A.896(2). Those requirements are not the topic of this rule concept memo.

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Proposed PRO Recycling Acceptance List

- Glass packaging
- Steel and aluminum aerosol packaging
- Single use pressurized cylinders (e.g., propane)
- Aluminum foil and pressed foil products
- Shredded paper
- Polyethylene film
- Plastic buckets, pails and storage containers (HDPE and PP)
- Block white expanded polystyrene
- PE and PP lids
- HDPE package handles (e.g., 6-pack handles)

Rule Concepts: Collection Targets

Rule Concept I

1. Collection targets should be expressed on a relative basis (% of generation), not absolute (tons)
2. PROs report annually weight of material collected (numerator) and generated (denominator)
3. Estimates shall be documented
4. Contamination doesn't count towards recovery
5. Only materials collected under PRO-supported collections count towards achievement of targets

Rule Concept II

See document for material-specific targets

Rule Concepts: Convenience Standards

PROs must “where possible” first contract with “existing recycling depots or drop off centers”

Rule Concept III

“Existing recycling depots or drop off centers” include:

- a. Those used to satisfy ORS 459A.005(1)(a)(A) (solid waste disposal sites or more convenient location)
- b. Those used to satisfy ORS 459A.007(1)(g) (“expanded depots”)
- c. Those operated by a Tribal government
- d. Those otherwise located at sites with solid waste permits
- e. Those otherwise operated by a local government or its service provider

“Where possible” means:

- a. Existing site operator is willing to contract, and
- b. Existing site operator is able to contract, and
- c. Annual cost to the PRO does not exceed 1## percent of what the PRO would pay elsewhere, and
- d. Cost of reimbursement is reasonable and only pays for additional costs (not existing costs)

Rule Concepts: Convenience Standards

Rule Concept IV

- Minimum number of collection points:
 - All “existing depots” where “possible”
 - Additional sites if needed in order to meet population-based quotas
- Distribution of collection points within the same city
- Days and hours of operation
- Notification of changes and continuity of service

Anticipated outcome:

- 130 – 160 collection points for “base” materials
- 175 – 195 collection points for “enhanced” materials

Rule Concepts: Convenience Standards

Rule Concept V

1. If a materials on the PRO Recycling Acceptance List subsequently moves onto the Uniform Statewide Collection List, PRO collection obligations reduce to “existing” depots only, and only where such depots do not commingle the material
2. PROs may propose alternative compliance methods in their program plan

LUNCH



Public Input Period



Rule Concepts: Performance Standards

Rule Concept VI

1. Program plan requirements, monitoring and compliance
2. Free to public
3. Promotion
4. Accessibility
5. Contamination prevention and management
6. Quality assurance (outbound materials)
7. Litter mitigation
8. Compliance
9. Self-reporting of incidents

Rule Concepts: Performance Standards

Rule Concept VII

One-day events: public outreach; event staffing and resourcing

Rule Concept VIII


Expanded polystyrene:

1. Reduction of life cycle impacts; densification prior to long-haul transport
2. Densification technologies (mechanical preferred over thermal)

Aerosol containers and pressurized cylinders

3. Staffed collection; written affirmation of RCRA exempt status for businesses
4. Aerosols “overmanaged” as universal waste
5. Pressurized cylinders “overmanaged” as hazardous waste

Recycling Acceptance Lists: Additional Requirements



State of Oregon Department of Environmental Quality

Rule Concept: Additional Requirements Related to Recycling Acceptance Lists

Plastic Pollution and Recycling Modernization Act (SB 582, 2021)
Rulemaking Advisory Committee Meeting 4 of 5, Rulemaking 1

Dec. 28, 2022

Background

This memo provides additional rule concepts on the topic of recycling acceptance lists. Concepts relate to the following topics:

- Membership fees charged by Producer Responsibility Organizations (PROs) to their members
- Material yield requirements in the context of “responsible end markets”
- Revisions to existing rules
- Effective date of all rules related to material acceptance lists

Concepts for discussion at Jan. 11, 2023 RAC meeting

PRO Membership Fees

Background

ORS 459A.869(2) requires producers to pay an annual membership fee to a producer responsibility organization. ORS 459A.884 provides requirements for such fees. Among these, ORS 459A.884(3) imposes special requirements on fee rates assessed on “covered products sold or distributed in or into this state that are *not accepted by recycling collection programs in this state*” (emphasis added). This begs the question: what does it mean to be “accepted” by recycling collection programs in this state? This question is significant as some covered products may be accepted through special, private collection programs, independent from any statewide services (e.g., the Local Government Recycling Acceptance List and PRO Recycling Acceptance List). Typically, these services will either be fee-for-service, and/or will operate in a limited geographic scope.

- I. **Rule concept for discussion: “Accepted by recycling collection programs in this state” (ORS 459A.884(3))**
 1. A material is “accepted by recycling collection programs in this state” (for the purpose of ORS 459A.884(3)) only if it is designated by administrative rule on the Local Government Recycling Acceptance List or the PRO Recycling Acceptance List, or otherwise has been added to the Uniform Statewide Collection List by the mechanism provided for in ORS 459A.914(4)(b).

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Additional Requirements: PRO membership fees

ORS 459A.884(3)

- Covered products sold or distributed in or into this state that are not **accepted by recycling collection programs** in this state shall be assessed base fee rates as follows:




- (a) [average base fee rates for covered products must be higher than the average for covered products that are accepted by recycling collection programs in this state]
- (b) [base fee rate shall be approximately proportional to the covered products' relative contribution to the financial obligations of the PRO]

Materials that are...

- on the Local Government Recycling Acceptance List,
- on the PRO Recycling Acceptance List, or
- added to the USCL through a PRO plan-triggered process

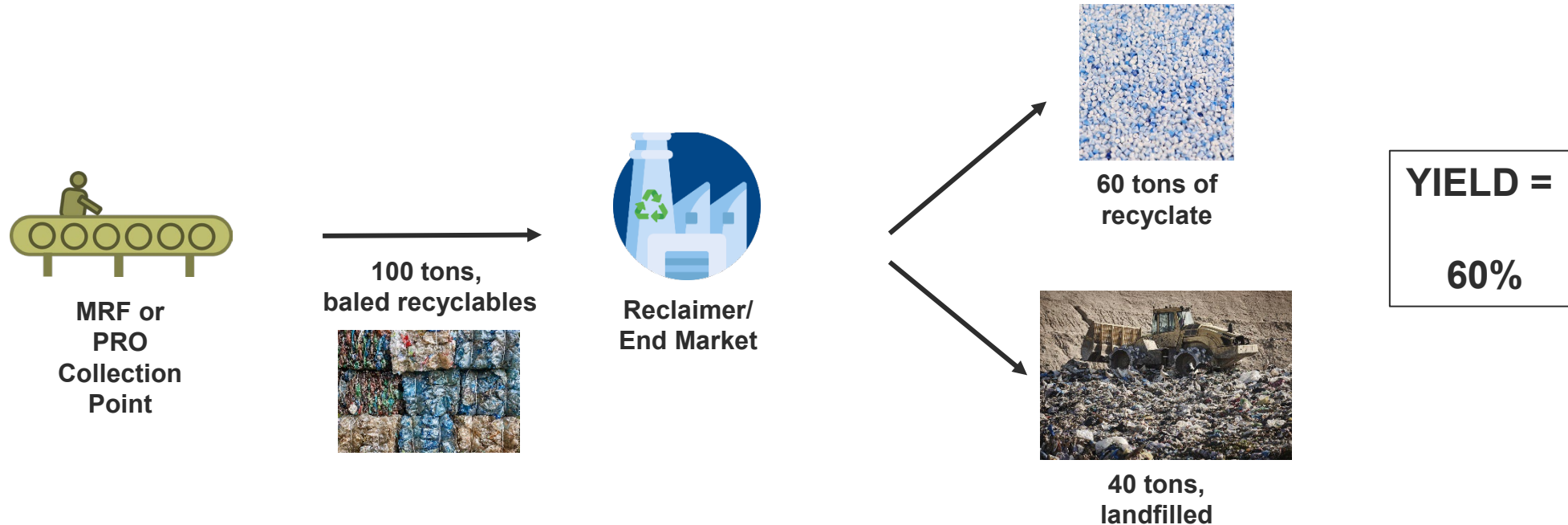
Additional Requirements: Yield

Responsible End Market Rule Concept: Remaining Elements (in red)

1. “End market” material-specific definition  Yield Threshold
2. 4-prong standard for “responsible”  List of EQC-approved certifications
3. Implementation pathways
4. Auditing requirement
5. Definition of “practicable” and pathways for proving ‘impracticability’  Benchmark

Proposed Yield Threshold: 60%

What is Yield and Why Do We Care?



Proposed Yield Threshold: Details

- Could be applied in compound to all supply chain nodes after the MRF
- Applied individually to each material even in a mixed bale
- For paper cans, applied individually to the steel or paper fractions of the material
- Calculated without inclusion of contaminants or incidental materials

Revisions to Existing Rules

“Straightforward” amends necessary to align rules with statute

Other amendments:

1. Eliminate references to “principal recyclable materials”
2. Replace Metro yard debris rule (no functional change)
3. Modify language to avoid conflicts with the Local Government Recycling Acceptance List (specific to rigid plastic containers)
4. Clarify method of calculating recycling rate for plastic packaging and food serviceware
5. Align with updated state policy hierarchy for management of materials
6. Change definition of “recyclable material” for purposes of “fair market value exemption”
7. Other housekeeping changes

Acceptance Lists: Effective Dates

- Obligations to collect materials on acceptance lists established by this rule become effective July 1, 2025
- 30-month grace period for local governments (enforcement discretion)

RAC Meeting Schedule



March 10, 2023

Topics:

- Draft rules preview
- Equity & Fiscal Impact Statements

More information

Rulemaking webpage

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

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