

SB 263 Materials Management Rulemaking

Advisory Committee Meeting #4 September 13, 2016



Facilitators:

David Allaway &
Holly Stirnkorb

**This public meeting is
being recorded.**

SB 263 Materials Management Rulemaking

Agenda

Time	Presentation and Discussion Topic
10:00 a.m.	Welcome & Introduction
10:05 a.m.	Food Waste Recovery Goal – Follow up from Meeting #3
10:15 a.m.	Draft Proposed Rules – Overview of Changes Since Meeting #3
10:20 a.m.	Draft Proposed Rules – Advisory Committee Comments
11:20 a.m.	Fiscal Impact Statement – Methodology & Conclusions
11:35 a.m.	Fiscal Impact Statement – Questions & Answers
11:50 a.m.	Fiscal Impact Statement – Questions for the Advisory Committee
12:20 p.m.	Fiscal Impact Statement – Summarize Committee’s Findings
12:25 p.m.	Draft Proposed Rules – Advisory Committee Comments, Continued
12:55 p.m.	Public Comment Opportunity
1:00 p.m.	Adjourn

SB 263 Materials Management Rulemaking

Advisory Committee

Matt Korot	Prog. Dir., Resource Conservation & Recycling	Metro
Willie Tiffany	Executive Director	ORRA
Mark Nystrom	Policy Manager	Association of Oregon Counties
Tracy Rutten	Intergovernmental Relations Associate	League of Oregon Cities
Mark Morgan	Assistant City Manager	City of Hermiston
Pete Chism-Winfield	Materials and Waste Specialist	City of Portland
Stephanie Scafa	Waste Prevention and Green Building Analyst	City of Eugene
Contracia (Traci) Carrier	Budget Analyst	Jackson County
Bailey Payne	Recycling Coordinator	Marion County
Sarah Grimm	Waste Diversion Specialist	Lane County
Mark Saelens	Solid Waste District Program Manager	Lincoln County
Vinod Singh	Operations Manager	Far West Recycling
Dave Larmouth	Rate Analyst	Recology Western Oregon
Kim Kaminski	Government Affairs	Waste Management
Rob Guttridge	Vice President	Recycling Advocates

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Food Waste Statewide Recovery Goal

- SB 263 set material-specific goals for recovery of food waste, plastic, and carpet
- Food waste: 17.6% of all “counting” waste, and 28.9% of the waste in household garbage cans.
- Food waste is a major contributor to greenhouse gases when not recovered.
- Goal: 25% recovery of food waste by 2020

SB 263 Materials Management Rulemaking

Proposed Rule: Food waste does not include:

- Crop residue or other agricultural wastes
- Waste from industrial-scale food processing facilities
- Waste that is composted on the site of generation
- Waste that is disposed of directly by the generator to a sewage or septic system

These are the same standards we currently use for what counts in the annual Material Recovery Survey

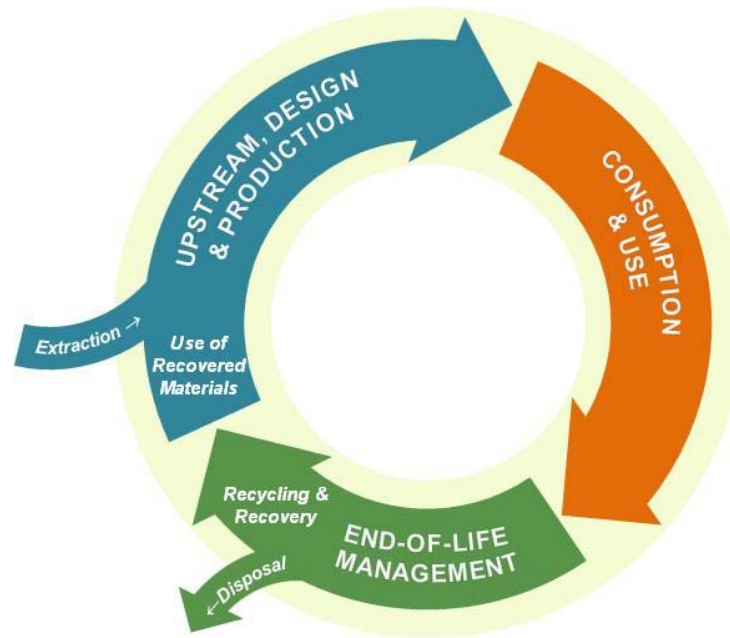
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Who reports handling food waste in Material Recovery Survey? For 2014:

- 46,447 tons recovered total
- 3,635 tons came from grocery chains shipping food out-of-state to a composter
- ~42,750 tons were collected or received solid waste management companies or passed through a transfer station

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Draft Proposed Rules



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Overview of Changes Since Meeting #3

Mostly non-substantive changes.

- Revise outdated rule language (e.g., removing an unnecessarily specific reference to used oil signs in “Purpose” at OAR 340-090-0005);
- Fix problematic grammar (e.g., passive voice); and
- Address stylistic issues that have led Division 90 to differ from other Oregon Administrative Rules, the state’s rule guidelines, etc. (e.g., nearly all defined terms must not be capitalized).

SB 263 Materials Management Rulemaking

Overview of Changes Since Meeting #3

Substantive changes to rule sections due to SB 263:

- OAR 340-090-0010 – Definitions
- OAR 340-090-0020 – Opportunity to Recycle
- OAR 340-090-0040 – Local Government Recycling Program Elements
- OAR 340-090-0041 – Contamination Reduction Education Plan
- OAR 340-090-0042 – Waste Prevention and Reuse Programs
- OAR 340-090-0045 – Wasteshed Programs for Two Percent Recovery Rate Credit (removed)
- OAR 340-090-0050 – Wasteshed Designation and Recovery Goals Rates
- OAR 340-090-0060 – Determination of Wasteshed and Overall Statewide Recovery Rates
- OAR 340-090-0068 – Determination of Material-Specific Recovery Rates
- OAR 340-090-0080 – Alternative Programs for Providing the Opportunity to Recycle
- OAR 340-090-0100 – Reporting Requirements

SB 263 Materials Management Rulemaking

Overview of Changes Since Meeting #3

340-090-0041 – Contamination Reduction Plan

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- (1) To determine the levels of contamination of materials set out for collection:
- (a) Frequency. At a minimum, the plan must include some activity each year to proactively assess contamination levels (e.g., sampling of residential recycling containers in a geographic area or on a route).
 - (b) Points of assessment of contamination levels. Contamination levels must be assessed in at least one of these two categories of points of assessment in the collection process:
 - (A) collection service customers and other generators' recycling containers; or
 - (B) points of transfer or processing (e.g., transfer station).
 - (c) Methodology and Rationale. Descriptions of and rationales for each of the following:
 - (A) Selection method, which would include at least:
 - (i) certain recycling containers (i.e., all recycling containers OR a randomly selected subset) set out for collection in specific geographic areas or on specific routes; or
 - (ii) loads of collected recyclable materials from randomly selected routes.
 - (B) Measurement method, which would include at least:
 - (i) actual weight or volume of contamination levels; or
 - (ii) visual inspections and estimates of contamination levels.
 - (C) Materials focus, which would at least include a focus on specific types of contaminants or general categories of unacceptable items.
 - (D) Method of analyzing data, including relevant criteria, such as:
 - (i) calculation methods;
 - (ii) data to be analyzed (e.g., number of samples and average sample weight); or
 - (iii) descriptions of visual inspections and estimates of contamination levels; and
 - (iv) description of expected results, which would include at least the types and quantities of contaminants.
- (2) Based on levels of contamination within the local government unit, as assessed according to the plan, specify targeted actions to reduce contamination. At a minimum, those actions must be approved by the Department and must include:
- (a)(A) educational contact with contaminating collection service customers and other generators at the point of generation, such as through color-coded tags on recycling containers, door hangers, additional information on solid waste invoices, etc.; OR
 - (B) communitywide educational messaging, such as through a campaign promoting behavior changes by collection service customers or generators in the local government unit that includes how to source separate and prepare materials set out for collection.
 - (b) descriptions of the education's:
 - (A) general content,
 - (B) format,
 - (C) schedule for distribution or implementation,
 - (D) means of distribution or implementation, and
 - (E) target audience.

340-090-0041 – Contamination Reduction Plan

...

- (4) To satisfy section (3)(a) of this rule, the contamination reduction education plan must describe the following:
- (a) Method of assessment;
 - (b) Frequency of assessment; and
 - (c) Points of assessment in the collection process, including those from either of the following categories:
 - (A) Customers' and generators' recycling containers; or
 - (B) Points of transfer or processing, such as transfer stations or material recovery facilities.
- (5) To satisfy section (3)(b) of this rule, the contamination reduction education plan must include some activity each year to proactively educate persons in the local government unit. The contamination reduction education plan must also satisfy the following criteria:
- (a) The plan must include descriptions of the education, including:
 - (A) The educational content being provided, including a list of materials that are priority contaminants and information on how to recycle or dispose of those contaminants properly;
 - (B) The format of that educational content;
 - (C) The audience to which the education is being presented or distributed; and
 - (D) The means of and schedule for distribution or implementation.
 - (b) The education must include activities in at least one of the following categories:
 - (A) Contact with collection service customers and other generators at the point of generation, such as through color-coded tags on recycling containers, door hangers, or invoices that include information on how to reduce contamination of materials set out for collection; or
 - (B) Community-wide messaging, such as through a campaign promoting behavior changes by customers or generators in the local government unit, that includes how to reduce contamination.

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SB 263 Materials Management Rulemaking

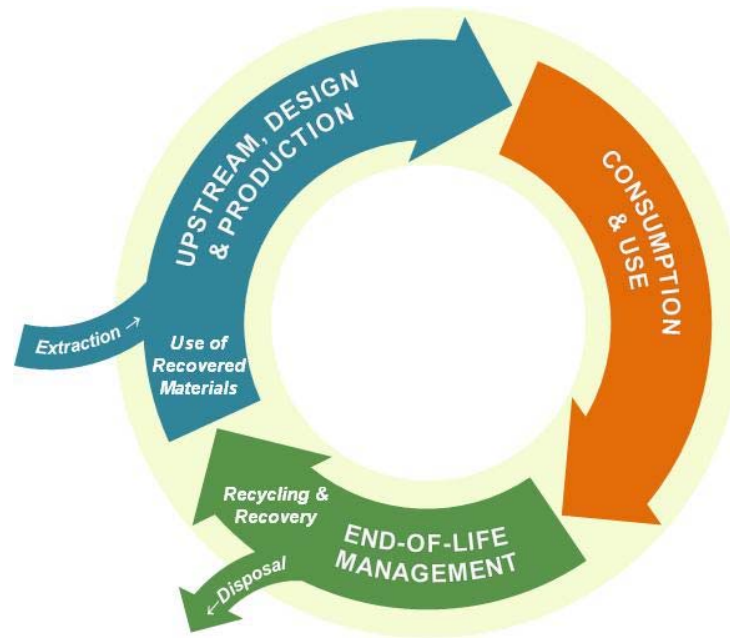
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Fiscal Impact Statement



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Advisory Committee Questions

DEQ has appointed an advisory committee to review the Fiscal Impact Statement. As ORS 183.333 requires, DEQ will ask for the advisory committee's recommendations on:

1. Whether the proposed rules would have a fiscal impact;
2. What the extent of that impact would be; and
3. Whether the rule will have a significant adverse impact on small businesses.

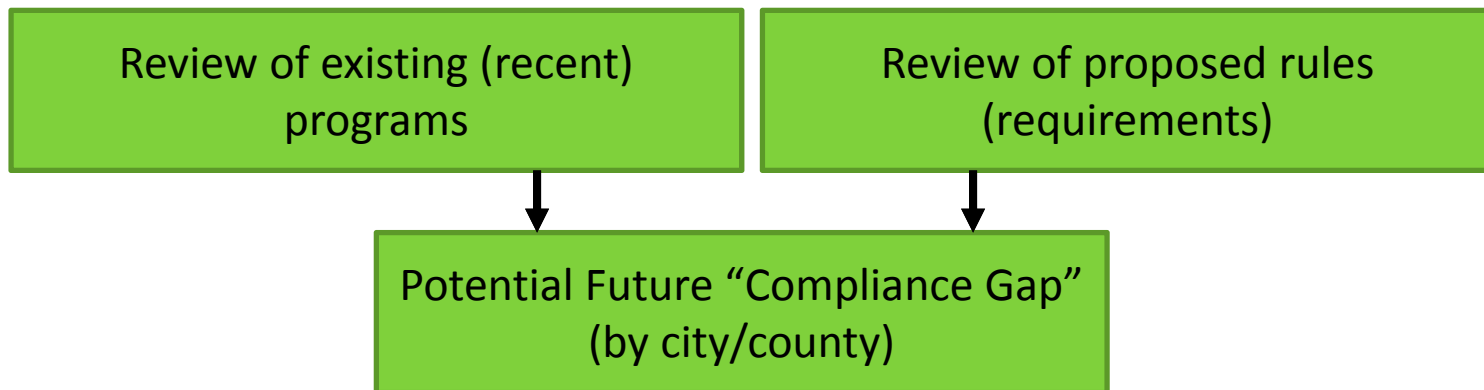
SB 263 Materials Management Rulemaking

Types of Costs:

- Implementing (and reporting on) additional (new) recycling program elements.
- Complying with new requirements (contamination) of the “expanded education and promotion” recycling element.
- Complying with new waste prevention and reuse elements.

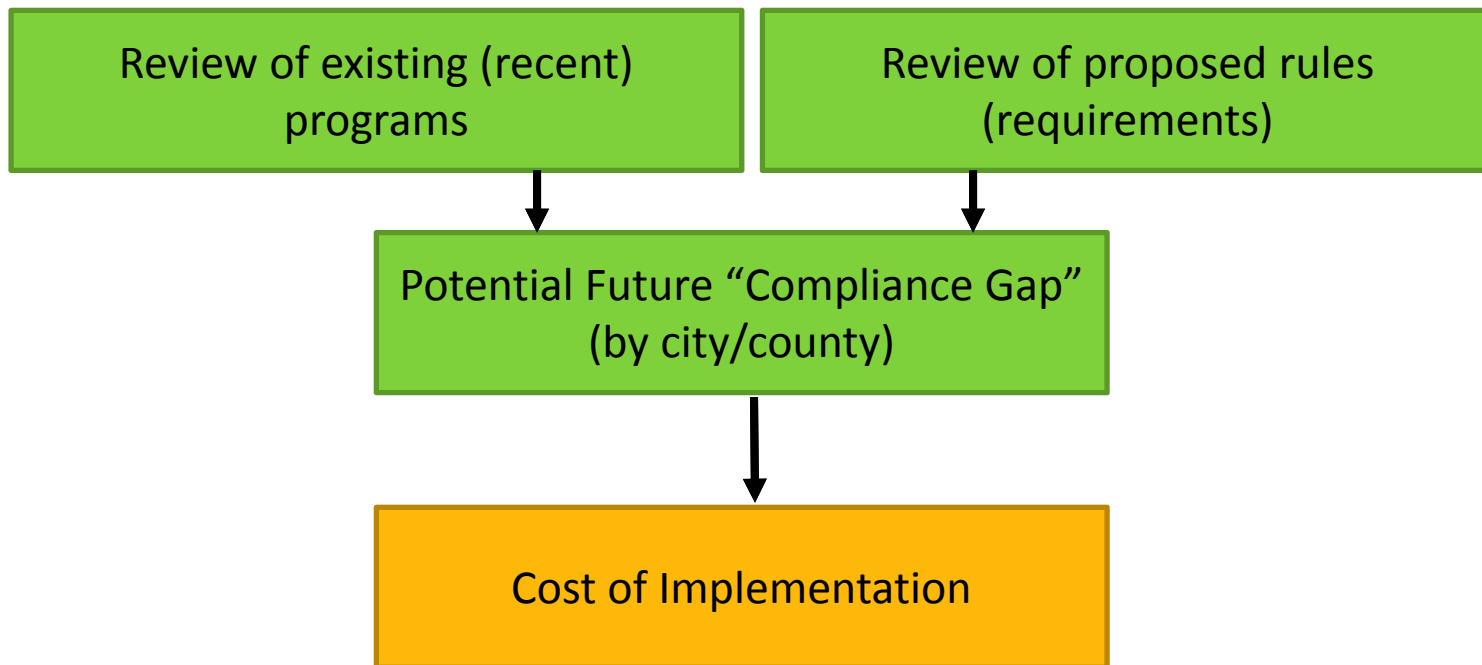
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Approach



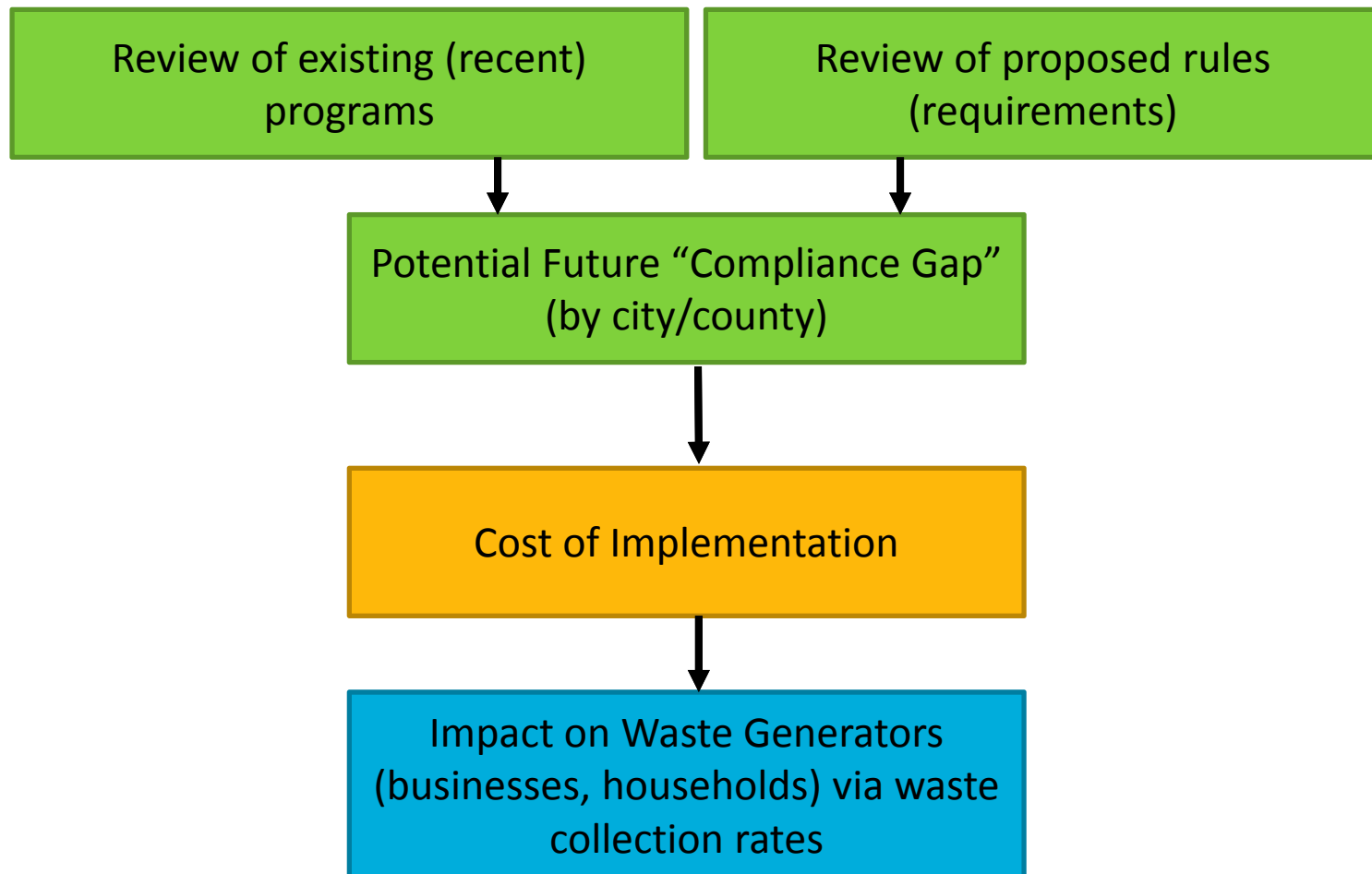
SB 263 Materials Management Rulemaking

Approach



SB 263 Materials Management Rulemaking

Approach



SB 263 Materials Management Rulemaking

Brief Summary

- Proposed rules' fiscal impacts most directly relate to DEQ's and local governments' expenses.
- Local governments have discretion about how to respond to those direct fiscal impacts (including delegating to franchisees or other service providers).
- Proposed rules could affect waste collection service rates for communities that are directly affected by the proposed rules.
- Proposed rules would have, at most, minor fiscal impacts, whether direct or indirect, on governmental, public, and private categories and on housing development and construction.
- Fiscal impacts on small businesses should also be relatively low.
- Fiscal impacts could be experienced differently across Oregon depending, in particular, on local economic circumstances and solid waste system and funding.

SB 263 Materials Management Rulemaking

Statement of Cost of Compliance

The average annual fiscal impact of these proposed rules on all local governments statewide would be approximately \$640,000 (in 2016 dollars). That total is the marginal cost annualized over the first five years of implementation.

- **Wasteshed Recovery Goals** – Estimated Annualized Cost (statewide): \$0.
- **Contamination Reduction Education Plan Component of Expanded Education and Promotion** – Estimated Annualized Cost (statewide): approximately \$370,000/year.
- **Recycling Program Elements and Increased Numbers of Required Minimum Elements** – Estimated Annualized Cost (statewide): approximately \$170,000/year.
- **Waste Prevention and Reuse Program Elements** – Estimated Annualized Cost (statewide): approximately \$100,000/year.

SB 263 Materials Management Rulemaking

Table 1. Projected Increase in Operating Costs for Businesses with Dumpster-Based Waste Collection Service

Class of Cities	Examples	Impacts
Increased reporting only	Clatsop, Jefferson, Polk and Wasco Counties	Min: 0.00006% Mean: 0.0002% Max: 0.0004%
Increased Reporting + Waste Prevention and Reuse	Marion and Jackson Counties, Portland	Min: 0.00004% Mean: 0.0003% Max: 0.0006%
Increased Reporting + Waste Prevention and Reuse + Multi-family Recycling	Eugene, McMinnville, Newberg, possibly Woodburn	Min: 0.0002% Mean: 0.001% Max: 0.002%
Increased Reporting + Expanded Education and Promotion	Junction City	0.01%

SB 263 Materials Management Rulemaking

Housing Cost

Per ORS 183.534, DEQ has evaluated how the proposed rules would affect the development cost of a 6,000 ft² parcel and construction of a 1,200 ft² single-family dwelling on that parcel.

- Potential rate impacts on drop box services from the proposed rules would be relatively small for a cross-section of affected cities and counties.
 - Estimated impacts on drop box rates would be, on average, a **0.05 % rate** increase across affected communities.
 - Estimated rate increases range from **0.01** to **0.17 %**.
 - These numbers exclude the outlier results from DEQ's rate model for small east Multnomah County cities.
- Because waste disposal is typically a small portion of total development costs, the estimated cost of the proposed rules would cause even less of a percentage increase.

SB 263 Materials Management Rulemaking

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SB 263 Materials Management Rulemaking

“Significant Adverse Impact”

“Significant Adverse Impact” on Small Businesses

- The intent of ORS 183.540 is:
 - (1) to give small businesses special consideration, because larger businesses were thought to be able to better deal with the cost of implementing rules; and
 - (2) to assess whether proposed rules have a disproportionate regulatory impact that creates competitive disadvantages for small businesses.

SB 263 Materials Management Rulemaking

“Significant Adverse Impact”

A “significant adverse impact” on small businesses under ORS 183.540 is one that:

- (1) disproportionately affects or creates disadvantages for small businesses (as compared with the type of regulatory effect on larger businesses);
- (2) does not apply equally and with the same qualitative effect on small and large businesses engaged in the activity regulated by the proposed rules; and
- (3) may disadvantage the entire class of small businesses affected by the proposed rules.

SB 263 Materials Management Rulemaking

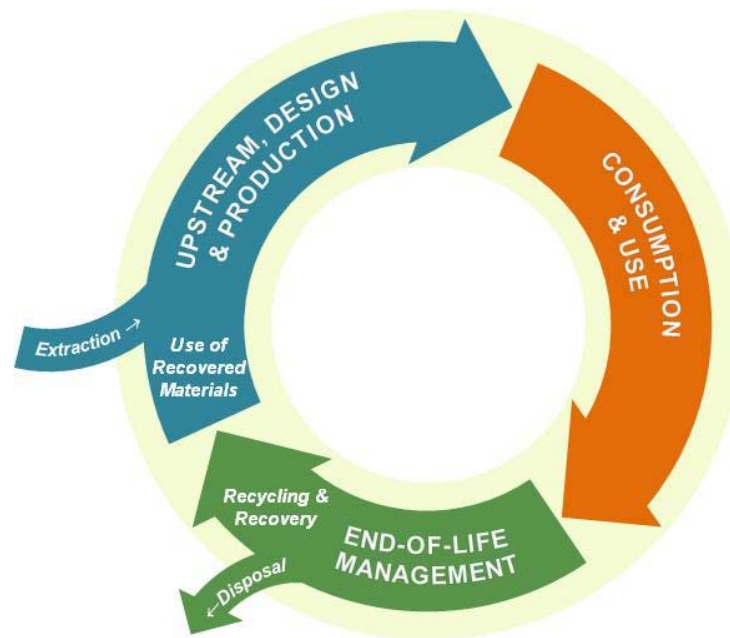
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SB 263 Materials Management Rulemaking

Draft Proposed Rules, Continued



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Public Comment Opportunity

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REBECCA HICKMAN (Host)

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My Meeting Minutes

Minutes Snapshots

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Adjourn

Timeframe

- Proposed Rules' Formal Publication – November 1st, 2016
- Public Hearing – Thursday, November 17th, 2016
- EQC Meeting – January 18-19th, 2017
- Advisory Committee site – <https://www.oregon.gov/deq/RulesandRegulations/Pages/Advisory/Recycling2016.aspx>
- Project Lead – Raeburn.Matthew@deq.state.or.us