

March 17, 2023

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RE: Feedback on 3/6/23 Recycling Council meeting

These comments are related to the Oregon Recycling Council (ORC) meeting on March 6, 2023, in response to the request for feedback from council members on the Transition Period proposal and the questions posed to council members regarding that proposal, as well as the Materials List agenda item.

With regard to the Transition Period proposal, I appreciate DEQ's recognition of the work that will need to happen after the July 1, 2025, Recycling Modernization Act (RMA) implementation deadline. As I stated during the ORC meeting, I completely agree with nearly everything laid out in the draft proposal, with one significant exception, which I did my best to describe at least briefly in the meeting and went so far as to offer a possible solution for consideration.

Below, I'll attempt to do a more thorough job of lining out my concerns and suggestions. The first two points and headings correspond to tables found on pages 2-3 of the *Draft proposal for discussion: RMA Implementation Transition Period* document we reviewed at the 3/6/23 meeting.

1. RMA elements that will roll out by July 1, 2025

My primary concern revolves around the establishment of the Uniform Statewide Collection List (USCL), and timing of action required of Producer Responsibility Organization's (PRO's), Local Governments (LG's) and their service providers, and Commingled Recycling Processing Facilities (CRPF's).

As I understand it, by 7/1/25, the PROs must develop educational resources and campaigns to promote the USCL, and the CRPF's must accept all materials on the USCL. While the CRPFs must accept the USCL by July 1, 2025, there are no PRO funds available to CRPFs prior to July 1, 2025. This puts the cart before the horse – the materials will arrive at CRPFs and there may not be systems in place to sort appropriately, which will cause issues in marketing the materials to responsible end markets – until such time as there is funding to upgrade their equipment to adequately manage some of the materials they claim are currently problematic.

A short list (which I referred to in comments submitted on 1/17/23) of the materials recommended for the USCL are marginal, or emerging at best, and while the quantities are admittedly small, the potential for the materials becoming contamination is great given current limitations in technology. Cartons and aseptics, for example, are not effectively removed in the existing MRFs. Specialized sorting equipment and storage would need to be added to the existing infrastructure to effectively manage these materials. To ask the CRPFs to invest on their own before validation of markets, and/or a pilot that proves sorting and markets are working, is backwards and seems a bit unreasonable. It seems like the issue is the timing and structure of

PRO investment. Without knowing what potential investment form the PRO's looks like, it is difficult to know what short-term needs should be addressed, and what solutions the PRO's will fund in the future. It should be similar to the process LG's are going through with the needs assessments, and recognition of the fact that they will not be ready to roll out expanded services until funding is confirmed.

2. RMA elements that will have a transition period from July 1, 2025, to December 21, 2027

As I understand it, DEQ's Transition Period proposal is to allow LG's to have more time to implement/phase in the USCL list that will be set by rule before 2025. As a service provider, I appreciate that it will take some time to make the changes that will need to be made to accommodate new requirements. However, I don't understand the logic of allowing LG's and haulers time to phase in collection of USCL materials, and phase in implementation of Opportunity to Recycle requirements dependent on PRO funding, such as service expansion identified through the needs assessments, and not extend that same approach to the CRPF's.

The concession to the CRPF's, as I understand it, is that they "will have a grace period associated with certain permitting standards reliant on PRO funds" until, I'm assuming, there is adequate PRO funding for new technology that will allow them to more effectively manage some of the currently proposed USCL materials that are currently problematic, and likely to continue to show up as contamination in outbound bales. *This is the problem I am having as a hauler – can I support adding materials to the USCL that I suspect will still functionally be considered contaminants in the stream I'm delivering to CRPF's, at least until they can get assistance in funding the technology they need to improve sorting effectiveness and decrease contamination in outbound bales?* DEQ offering more relaxed enforcement from the July 2025 deadline until the end of 2027 does not solve the important public trust concern - customers will believe what they put in the recycling cart is ending up in responsible markets, and that could very likely not be true.

As I understand it, there are essentially four types of materials on the proposed USCL list that currently have "sortability" and market challenges: paper cans; cartons and aseptics; nursery packaging, and; paper cups. *Our industry's position has all along been that we ensure the CRPF's can sort them and market them before we put them on the USCL.* As was shared at the recent RAC meeting, ORRA is working with the Carton Council on a CRPF project now – looking at the sorting needs at CRPF's in order to be prepared for the incoming cartons and aseptics. This is welcome news and seems like an opportunity to ensure that the processing and the marketability will work as projected prior to the 7/1/25 launch date for CRPF's to be required to accept these materials. Frankly, I believe we should do this for all marginal materials. This could serve as a precedent for a process by which new materials can reasonably be added to the USCL in the future.

As I suggested in the council meeting, I think there is a reasonable, practical way to address the issues around the timing of implementation across the board. Since the primary criticism I'm hearing for a phased-in approach to materials being added to the USCL appears to be based on the millions of Oregonians who are currently able to "recycle" some of the marginal materials

I'm urging a phased-in approach for – and the very reasonable concern that taking those materials off of their current acceptance lists will be exceedingly difficult, especially if some of those materials might possibly be added back in within a relatively short period of time, I proposed that we allow those programs to be the “pilot program” materials, with initial “conditional acceptance” on the USCL (simply call them out with an appropriate symbol, noting that they are in a testing stage), until their sortability and marketability challenges are addressed. That way, the remaining programs outside the Portland-Metro region who do not collect those materials currently won't add to the problems at the processing level until those problems have been straightened out.

I heard the concerns about confusing educational messaging if there were to be a phased-in approach to the USCL Materials List, but frankly, no matter what, there is going to be confusion during the proposed 2-year Transition Period. But most of that confusion is going to happen outside the major population hub in Oregon, anyhow. If LG's and service providers can't pivot to the new USCL and changes to Opportunity to Recycle requirements (OTR) as of day one, July 1, 2025, then their “list” will look different than the Metro region – and will need to change as funding becomes available and facilities are built, depots sited, trucks and carts made available, etc. And if you consider the implications of the approach I suggested, the impact is functionally the same. Programs outside the Metro region would function differently until they could make all the changes they need to make, AND the CRPF and markets test for the *USCL (* = conditionally accepted/pilot test materials) allows those materials to be adopted to programs statewide. Programs in the Metro region will be minimally impacted – and won't have to engage in a massive, possibly temporary campaign to remove the pilot materials. They can focus solely on generator-facing contamination reduction efforts and changing behaviors around the handful of materials being moved from curbside commingle to segregated collection.

Either way, the programs are not all going to be identical on day one across the state, but the goal in both cases, is to have a universal statewide list in place and collected by January 1, 2028. The difference is, the CRPF's will be able to handle that material, and it will have stable, consistent markets.

There are a couple materials on the proposed USCL currently that are not being collected in curbside commingle currently that no program that I know of is currently accepting – and I would propose that those are not added even conditionally until a pilot can be run that will show their CRPF-ability, and their ability to not bring with them a host of other non-recyclable contaminants. I'm talking about cups of any size, shape or material.

3. Other Materials List Issues

In my opinion, there has not been a single Rulemaking Advisory Committee (RAC) meeting where enough time has been allocated for a complete discussion of the USCL. I realize that this is the result of having too much to consider in too short a timeframe. Since the RAC met again on March 10, after our March 6 ORC meeting, and will be meeting again in April, I would like to have more discussion about the materials list at our next council meeting in April.

Finally, what about the testing of materials – how do we do this, both now, and in the future to add new materials to the USCL? We have consistently held that items that are marginal should not make the July 2025 list, but what is the pathway for adding them in the future? And what happens if an item should come off? What are the off ramps?

Thanks very much for the opportunity to provide additional input.

Regards,

Laura Leebrick