

Local government concept for modernizing Oregon's Recycling System
DRAFT V 09.03.2020

Vision

The challenges faced by Oregon's local recycling programs are not unique to Oregon, but Oregonians have the opportunity to develop a unique response that is grounded in our state's 2050 Vision for sustainable materials management. It's time for Oregon's local recycling programs to evolve into a modern statewide recycling system that is consistent with Oregon's values and includes defined roles for producer participation and responsibility. We want a recycling system that achieves the Oregon Recycling Steering Committee's desired functions and purpose of optimizing environmental benefits, creating a recovery system that is strong and resilient, and restores and maintains public trust, and that:

- helps us reduce waste, use fewer resources and protect the environment;
- provides clean materials to manufacturers and ensures materials are recycled responsibly in ways that do not burden end-market communities with plastics, air or water pollution;
- is resilient and able to adapt over the at least the next 30 years as economic conditions, manufacturing practices, consumer preferences, and products and packaging change;
- is transparent and accountable to the communities and businesses who support and participate in the system;
- provides convenient and equitable access opportunities for residents and businesses to participate in the system, including those who live in rural communities and multifamily homes;
- advances equity and economic opportunity for local, Oregon and Northwest businesses, and businesses owned by women and people of color;
- supports safe, living wage jobs and opportunities for worker advancement and workforce development; and
- has stable system financing that meets the needs of today and supports the capital investments needed to adapt to change.

Current situation

Oregon is a national leader when it comes to recycling. Oregonians value the environmental benefits of recycling and established state policies in the 1980s and 1990s that require communities to provide recycling opportunities for residents and businesses.

Oregon's local recycling programs were developed when most products were manufactured in the United States and only a few items were packaged in plastic. This system worked well for many years, but Oregon's local recycling programs now face major challenges, including increasing costs. The items we put in our recycling bins today are part of a complex international manufacturing and supply system. The rapid increase in new types of plastic packaging, often with misleading or inaccurate recycling labels, has made recycling more confusing for the public.

This has led to sorting challenges and plastic packaging contamination in the bales of materials that flow to manufacturers in the U.S. and around the world. Contamination has devastating environmental and social impacts on end market communities who have to deal with plastic trash, and many have closed or restricted their markets in response. Contamination and the demand for cleaner material have resulted in a rapid rise in system costs. This

Commented [SM1]: All the comments will show "Scott Mitchell" as author because I am working out of town and my keyboard stopped working so I am borrowing a different laptop. The comments are from the ORRA members of the RSC.

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has been particularly hard for communities that also pay to transport the materials they collect to distant processing facilities. Local governments across Oregon have had to raise solid waste rates and/or drop materials from their collection programs in response.

Oregon residents and businesses pay the cost to sort recyclables but have little influence on how those dollars could be used to invest in and modernize the system. Local programs also have no control when it comes to how and where items are recycled. We cannot assure residents and businesses that materials are properly sorted and recycled responsibly when they travel to markets outside the United States.

Finally, while residents can buy less stuff and reuse what they have, consumer brands, packaging producers and plastics manufacturers hold the most power to influence change. Consumer brands have made recent public commitments to invest in recycling infrastructure, address plastic pollution and use more recycled content in their products. However, experience and history have shown that we cannot rely on voluntary industry commitments. There is a clear need to obligate packaging producers to make good on their promises to the public.

CONCEPT ELEMENTS

The following is a high-level description of a new framework to support modernization of Oregon’s recycling system. The document starts with a description of the system design and includes sections on key system elements including public education, collection, processing and marketing. Each section begins with desired outcomes and includes an overview of roles and responsibilities for governments and producers, as well as performance standards.

SYSTEM DESIGN

Desired outcomes

- High functioning statewide system with stable financing that maximizes environmental benefits within available resources balanced with economic and social values, decreases the financial risks to local government programs when recycling market conditions change, and supports the investments needed to update the system over time.
- Statewide collection list that is consistent across the state and has a clear process to add or remove materials that takes environmental benefits and life cycle impacts into account.
- Extended producer responsibility for consumer brands and packaging producers that sell products and packaging in Oregon that include ~~both~~ **mostly** financial **responsibilities, but also some very limited potential** ~~and~~ **operational** responsibilities.

Commented [SM2]: “Operational” by itself is an overly-broad term and could lead to misunderstandings or scope “creep” for EPR operational control. This suggested change clarifies what we believe the intent to be.

Scope of legislation to meet outcomes

Legislation defines the following:

1. Producer responsibilities and obligations and Oregon DEQ’s oversight role
2. Scope of covered products will include printed paper and packaging including single use products
3. producers will be responsible for covered products they distribute or sell into Oregon through all channels including the internet

4. Stewardship plan requirements which describe how producers will carry out their responsibilities (basic plan requirements noted below)
5. Establishment of the Oregon Recycling System Council (ORSC) that represents a range of system stakeholders and provides ongoing feedback to DEQ (see below for more details)
6. Establishment of equity goals and standards and methods to track progress towards goals (see below for more details)
7. Product packaging truth in labeling requirement related to whether a package should be disposed, recycled or composted in Oregon¹
8. Recycling system feedback mechanisms and standards that address contamination at each stage of the recycling process.
9. Framework to permit and certify processing facilities to ensure improved sorting outcomes and advancement of equity for workers and end market communities.
10. Process for development and approval of a statewide standardized list of covered products to be recycled.
11. Establishment of standards for transparency and responsible exports of any recyclable materials that are shipped out of state for additional processing or end use.
12. Establishment of waste prevention and reuse grant program that provides financial support for local governments, schools and businesses to shift to durable reusable alternatives to single use items.
13. Includes producer-funded DEQ staff positions to review producer stewardship plans, educational materials and campaigns, system auditing and to support the ORSC.

ADDITIONAL ELEMENTS

The Recycling Steering Committee reached consensus on several important additional elements, either through discussion at RSC meetings or through ad hoc work groups that brought proposals to the full RSC. Some of these elements are reflected in the body of the local government concept, and some are not – although they should all be considered part of the complete concept. Below is a list and short description of those elements, with complete descriptions included in the Attachment where indicated.

Preliminary consensus elements:

- *Create a material-specific lifecycle assessment (LCA) database to support decisions for end-of-life management and design-for-environment.*
- *Define optimal material-specific end-of-life pathways, as an alternative to the conventional waste hierarchy.*
- *Support an expanded Bottle Bill to include wine and spirits in order to increase diversion of glass from curbside collection.*

Ad hoc group recommendations:

- *Create post-consumer recycled content requirements and/or incentives to create market demand for recyclable materials. (See Attachment II)*

¹ Compost labeling details to be determined with affected stakeholders.

- *Develop labeling requirements in statute* that require producers to create clear and effective labeling that reduces public confusion. (See Attachment III)
- *Create new anti-contamination programming requirements based on new statewide and local goals* – Require local jurisdictions to implement a minimum set of fixed implementation strategies and methods to reduce contamination, including escalating enforcement measures and methods that are effective and ongoing as determined by the State. (See Attachment IV)
- *Establish inbound contamination requirements* – At the point of transfer, the processing or reload facility should be responsible for providing feedback to collectors and/or local governments about contamination. (See Attachment V)
- *Establish outbound contamination requirements* – The processing system should provide markets with quality outbound materials, and sort properly prepared materials so that they are delivered to their intended end markets. Processing facilities should be accountable for delivering both of those outcomes effectively through certification and permitting standards. (See Attachment V)
- *Advance equity in the recycling system through minimum equity standards on processing facilities* – Advancing equity for workers, business owners and communities that host facilities can strengthen the system’s resiliency and safety, and create benefits for all. (See Attachment V)
- *Create a framework for producer fees to finance the system, account for hard-to-recycle materials, and influence design choices.* “Eco-modulation” of fees includes consideration of environmental and other system criteria, such as material choice and disclosure of lifecycle assessments. (See Attachment VI)
- *Develop and implement a standardized statewide list of materials collected for recycling.* (See Attachment VII for an example of a possible tool to use in determining this list.)

Commented [3]: RSC has not yet confirmed agreement on this proposal

DEFINITIONS

Responsible recycling:

- Processing collected materials at certified/permitted processors, transparently sending materials to responsible markets, ensuring that end market communities are not burdened with plastics, air or water pollution or other negative impacts. Optimal End of Life pathways and Life Cycle Assessment will inform decisions to support maximizing environmental benefits.

Covered products:

- All packaging and printed paper as defined, by function, in legislation. (e.g., plastic containers, OCC boxes, junk mail, brochures.) There will be exemptions for producers based on their size or amount of product they put into the market.
- Legislation will hold producers responsible for the covered products they sell and distribute into Oregon, including via e-commerce. (That responsibility stays the same whatever material they use to make the product.)
- *Difficult to recycle / Specifically Identified Materials:*

Commented [SM4]: As the drafts continue to evolve, there are more terms that are added that need further definition. Definitions are the foundation of statutory changes and they confirm the intent of the model. More definitional work needs to be completed in order to ensure we are all on the same page for intent. ORRA is willing to spend more time working on these issues, but with the deadline of September 4 for providing options before the final meeting on September 11, it may be unlikely we can reach consensus on this important section. Regardless, in this document, we point out some, but not all, of the terms that we believe need clarification. Here is a partial list of terms that should be clarified by definition in order to help confirm intent.

Curbside
On Route
Collection
Commingled
Statewide List
Covered
Depressed Market Value
Unfavorable Economics

- Specifically Identified Materials (SIM) are hard to recycle materials, which may be added or removed from the SIMs list based on specified criteria; including, but not limited to need for equipment improvements to sort, lack of viable markets, and/or depressed market value. The intention is that all materials reach responsible markets, and that there is responsible processing of materials and stabilization of ~~system costs to ratepayers~~. To that end, SIMs are defined as a material that has 'unfavorable economics' or would cause ~~the system costs to increase, costs to ratepayers~~. SIMs can be collected on route or in a depot program. The DEQ, the ORSC and producers will develop a list of covered products that are made of difficult to recycle materials. Producers will describe in their plans how they will meet their obligations for manage those products and materials.

Commented [SM5]: Depressed market value? Needs definition

Commented [SM6]: Unfavorable economics? Needs definition

Commented [SM7]: The concern should be broader than costs to ratepayers, it should be costs to the system overall. Please refer above, starting on page 1, to the second two paragraphs under the heading Current Situation. All participants along the supply chain are and should be concerned SIMs will raise those costs.

Collected covered products:

- The DEQ, producers and the ORSC will develop a list of what covered products will be collected statewide for commingled recycling at curbside or via an approved alternative program (see ORS 459A.007), what SIMs could go to recycling on route or in a from depots program, and what should go to disposal. The DEQ will review and approve the list.
- The Require DEQ, producers and the ORSC will ~~to~~ consider all of the following factors when determining what materials are collected commingled curbside and on-route and at drop-off recycling depots: stability, maturity, accessibility, and viability of end markets; environmental health and safety considerations; anticipated yield loss during the recycling process; compatibility with existing infrastructure; quantities of material available; sorting and storage considerations; contamination; ability for waste generators to easily identify and properly prepare materials; economic considerations; and environmental considerations from a life cycle perspective. The list will be aligned with the Truth in Labeling legislation.

Commented [SM8]: Is there a difference between statewide list v. commingled recyclable list, curbside or on-route collection or approved alternatives to curbside collection? There are too many terms sometimes used interchangeably and that leads to confusion over whether they are terms of art and intended to be used differently, or if they are more than one term meaning the same thing. If the terms are defined, it will clarify intent and streamline the concept.

There are multiple terms that include "lists" – statewide, SIMs, commingled, collected covered products, etc. ORRA requests that distinct definitions are created so we all understand how those lists affect the roles and responsibility of the system participants.

Commented [SM9]: Is this list different than the list referred to in the bullet above? Definitional gap.

Oregon Recycling System Council (ORSC) –

Statutory Provisions (and further clarification as needed in rule)

1. The ORSC would:

- Be appointed by the Governor, with 13 representatives reflecting a balanced and equitable participation that includes: all supply chains participants in the recycling system, local governments, community based organizations representing equity stakeholders, small businesses, environmental groups, and industry representatives which may include a PRO. Selection considerations will include representing the state by geography and size of communities. Meet quarterly at a minimum and as frequently as needed to accomplish the work.
 - Staffed by DEQ, with staff and administrative expenses funded by PRO(s)
 - Set number of terms and ensure continuity
 - Participants will be compensated equitably for their service on this Council.
- Advise and review; vote to make formal recommendations to the PRO(s) and DEQ on those activities affecting Oregon’s recycling system, including but not limited to:
 - Product stewardship plans, reporting, audits, including:

Commented [SM10]: This was in the original concept, was left out in error when ORRA and DEQ and OC revised yesterday, 9/3.

- Producer fee structures, including eco-modulation
 - Development of the statewide collection list, using criteria encompassed in the Recycling Material Assessment Tool (for example)
 - Depot and/or mobile collection events for hard to recycle items
 - Other programs for improving access, including improvement to access for multifamily residents
- b) How PRO(s) fees will be distributed to recycling system participants:
- Review of formulaic elements, such as statewide transportation and reload reimbursement
 - Priorities for system funding where discretion is provided via statute or rule.
- c.) Assist in development of statewide education materials and campaigns
- d.) Other system-wide elements such as Truth in Labeling, Generator-Facing Contamination and Recycled Content

C. receive and review responses from PRO(s) and DEQ to ORSC recommendations

D. report to Legislature every two years

E. no sunset

2. DEQ and PRO(s) are required to consult with ORSC, produce written responses and explain reasons why any recommendations of the ORSC are not accepted.

Producer Responsibility Organization/ Producer Stewardship Plan Requirements

At a minimum, producers will form a non-profit organization to meet responsibilities on their behalf, and develop and implement stewardship plans per Oregon statute and rule, including but not limited to the following elements:

- organizational structure and financing approach, performance and convenience standards,
- third party auditing and other reporting requirements,
- how eco-modulated fees will be incorporated to reduce the lifecycle impacts of covered products, level the playing field, and encourage local markets,
- how they will ensure responsible end markets for materials on the standardized statewide list,
- how they will meet truth in labeling requirements (which they must continuously meet in order to join a PRO),
- how they will meet their obligations to support public education about the standardized list,
- how they will meet their obligations to fund implementation of their plan, including financing various parts of the system (e.g., reimbursements to state and local governments, funding equipment upgrades, capital improvements at MRFs.). Considerations and methodology for establishing rates will be set in administrative rule.
- how they will meet their obligations to advance equity in the system,
- how they are meeting the intent to maximize existing infrastructure,
- how they will ensure transparency to the public of all costs related to administration of the PRO.

There will be a 30-day public comment period to the stewardship plan and annual report review processes. The PRO coordinates and collectively satisfies the legal requirements of individual producers, consolidating functions that will allow producers to meet their responsibilities under the law. Details of the PRO structure, its role and its responsibilities are defined in legislation, and will include provisions requiring transparency to the public of all costs related to the administration of the PRO. If there are multiple PROs, DEQ may serve as the coordinating body.

Advancing equity in the system

Legislation supports advancement of equitable outcomes as Oregon’s recycling system is modernized including:

- improved access to recycling services, particularly for multifamily property residents;
- public education information that addresses needs of people who speak languages other than English;
- economic opportunities for local, Oregon and Northwest businesses, and businesses owned by women and people of color,
- reductions in health and environmental impacts experienced by vulnerable communities in Oregon and in end market communities, and
- improvements in wages, benefits and opportunities for worker advancement for workers in the system, particularly sort line workers at material recovery facilities.

Desired outcomes and opportunities to advance equity in the recycling system are described in more detail in subsequent sections of this document. The intent is to advance continuous improvement toward meeting these outcomes through the establishment of goals, progress indicators and potentially standards. Baseline measurements are needed to inform this work and support tracking of progress. The state is responsible for defining equity goals, overseeing the development of indicators and standards, and reporting back to the Oregon Legislature every 3-5 years on improvements and ongoing efforts to continue advancing equity in the system.

Producers will be responsible for advancing equitable outcomes related to their specific system obligations and will describe how they will do this in their stewardship plans. The state will establish equity goals and standards for processors/material recovery facilities (MRFs) as part of the permitting and certification development process. The state will review current local government requirements related to multifamily recycling services and recycling education for sufficiency to meet desired equity outcomes.

Commented [SM11]: How will government partners in the recycling system participate in equity efforts? What are government obligations to track and report their internal efforts?

System design roles and responsibilities

State or local government roles	ORSC roles	Producer role and performance standards
<p>Oregon DEQ is responsible for the following:</p> <ul style="list-style-type: none"> ● Review and approve producer stewardship plans and eco-modulation fee structure. ● Enforce all requirements in legislation 	<ul style="list-style-type: none"> ● Review producer stewardship plans and eco-modulated fee structure. Make recommendation to PRO and DEQ. ● Participate in process to develop statewide recycling collection list. Make recommendation to DEQ. 	<p>Producers are required to belong to a stewardship organization/PRO that submit stewardship plans to DEQ for review and approval that describe how they will meet their responsibilities. Individual producers will still be held</p>

<ul style="list-style-type: none"> ● Administer waste prevention and reuse grant program ● Set up and provide staff support for the ORSC ● Oversee the development with stakeholders of the statewide recycling list. Review and approve final list. ● Conduct system audits ● Review and approval of producer education materials and campaigns related to the statewide standardized list of covered products to be recycled ● Oversight of equity provisions and reporting. ● Review and approve annual reports. 	<ul style="list-style-type: none"> ● Assist in development of statewide education materials developed by producers and make recommendation to DEQ. ● Review annual reports and make recommendation to DEQ. ● Review and advise on how PRO(s) fees will be distributed to recycling system participants <p>F. Review and advise on other system-wide elements such as Truth in Labeling, Generator-Facing Contamination and Recycled Content</p>	<p>responsible for meeting those obligations.</p> <p>Producers design and distribute their covered products into the market.</p> <p>Producers are responsible for keeping track and reporting their covered products that come in Oregon.</p> <p>Producers work with the DEQ and the ORSC to develop a statewide standardized list of recyclables.</p> <p>Producers are required to publish their eco-modulated fee schedule.</p> <p>Producers are obligated to reimburse DEQ for costs to oversee the program.</p> <p>Producer performance standards</p> <ol style="list-style-type: none"> 1. Stewardship Plans submitted and approved by DEQ describes how producers will meet the system-wide obligations. 2. Auditing and reporting requirements are met and this information is made available to the public. 3. Equity actions included in the stewardship plan and related reporting. 4. Additional standards defined in following sections.
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PUBLIC EDUCATION

Desired outcomes

Strong and continuing role for local governments, who are best positioned to coordinate recycling education with local reuse and waste prevention programs.

Equity standards that ensure educational materials have inclusive designs that meet the needs of people who speak languages other than English and those with disabilities (e.g. decal designs, standardized list outreach materials).

Extended producer responsibility for consumer brands and packaging producers that sell products and packaging in Oregon related to public education and truth in labeling.

Public education roles and responsibilities

State or local government roles	ORSC roles	Producer role and performance standards
<p>Local governments are primarily responsible for local business and resident education about recycling, reuse and waste prevention. (No change to statute.)</p> <p>Local governments ensure that educational materials meet the needs of people who speak languages other than English and those with disabilities in their communities.</p> <p>Local governments are required to use the statewide education templates associated with the statewide list.</p> <p>DEQ must review (with ORSC) and approve all statewide education materials and campaigns developed by producers.</p>	<ul style="list-style-type: none"> Assist in development of statewide education materials developed by producers and make recommendation to DEQ. 	<p>Producers are responsible for statewide education and promotion of the statewide standardized recycling list. This includes coordination and financing the development of statewide education materials and campaigns that are reviewed by the ORSC and approved by Oregon DEQ. This includes financing at the level needed to ensure the information meets the needs of people who speak languages other than English and those with disabilities.</p> <p>Producer performance standards</p> <ol style="list-style-type: none"> Statewide education activities carried out in accordance with approved stewardship plan and DEQ approvals of marketing materials developed through the plan. Packaging labels include accurate information about whether the item should be disposed, recycled or composted² in Oregon.

² Compost labeling details to be determined with affected stakeholders.

COLLECTION

Desired outcomes

Collection provides reliable and cost-effective service delivery and is coordinated with collection of other materials streams. Additional collection options, such as depots and mobile collection events, should be included for items that ~~are not~~ cannot be collected curbside or through an approved alternative program.

Commented [SM12]: Is curbside the same as on route? This goes to definition comments above.

Equity standards that ensure convenient access to system services for residents and businesses including those who live in rural communities and multifamily homes. Services have inclusive designs that meet the needs of people who speak languages other than English and those with disabilities (e.g. decal designs, container access for children and people who use wheelchairs)

Equity standards that ensure vulnerable communities experience reduced exposure to harmful air emissions from diesel trucks used in the collection system. Implement standards established in 2010 for increased use of renewable energy and phasing out use of older diesel trucks to attain reduced emission levels.

Extended producer responsibility for consumer brands and packaging producers that sell products and packaging in Oregon to ensure collection of clean materials and equitable access to recycling services.

Collection roles and responsibilities

State or local government roles	ORSC roles	Producer role and performance standards
<p>Local governments are responsible to ensure collection of the products on the statewide list. Local governments will manage generator-facing contamination feedback programs.</p> <p>The current role of local governments with regards to collection in the system does not change. In accordance with current state statute, local governments can choose to operate collection themselves or use contracts or permits, including franchises, to procure collection and generator feedback services. Local governments will work with their respective franchised or licensed haulers to prioritize what financial resources they will require from producers to fulfill their collection responsibilities.</p>	<ul style="list-style-type: none"> Review and advise on which collected covered products may be collected through depot or mobile collection events, using criteria listed in definition of “collected covered products” above. Make recommendation to DEQ. 	<p>Producers <u>share financial responsibility</u> with local governments to ensure collection systems collect the products on the statewide <u>list</u>; generate clean materials; and provide Oregonians equitable access to recycling services, including multifamily customers, rural communities and other communities that currently lack <u>service</u>.</p> <p>Producers will be required to provide the financing needed to ensure those outcomes through activities that include, but are not limited to:</p> <ul style="list-style-type: none"> Statewide transportation and reload (full <u>cost</u>) Generator-facing contamination feedback mechanisms for all customer sectors (full cost)

Commented [SM13]: Is this the commingled list?

Commented [SM14]: Not sure which communities currently lack service. Unless something has changed, DEQ reports show all communities of 4000 or more have curbside collection or an approved alternative. Clarify?

Commented [SM15]: Concerns about noting “full cost” throughout this section, which starts with “Producers share financial responsibility...”

<p>Local governments are responsible to ensure that people who live in multifamily homes have access to recycling services and barriers to participating in the system are mitigated.</p> <p>*Local governments, Oregon DEQ, producers and the ORSC work together to determine what covered products are not suitable for curbside collection but should be included in a depot or mobile collection event system.</p>		<ul style="list-style-type: none"> • Multifamily collection system upgrades to address equity in access to service (full cost) • Plastic litter collection (amount to be determined) • Other collection system improvements such as help to communities expand collection to comply with statewide list (eligible costs paid in full) <p>Producers finance and potentially operate depots and/or mobile collection events. The intent is to maximize use of existing infrastructure, and the Stewardship Plan will include documentation of this.</p> <p>* Depot locations and mobile collection plans provide convenient access for residents and businesses including those who live in rural communities and multifamily homes. Depot and mobile collection services and any related educational materials have inclusive designs that meet the needs of people who speak languages other than English and those with disabilities (e.g. decal designs, depot/mobile collection container access for children and people who use wheelchairs).</p> <p>Producer performance standards</p> <ul style="list-style-type: none"> • Demonstrate continuous improvement in access to recycling for multifamily residents and to communities currently lacking service • Utilize a distribution system that is agreed upon by system stakeholders when providing resources and funding to government and non-government entities
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Commented [SM16]: What are the “eligible costs”? ORRA has offered language for this section to clarify what we believe the LGs stated as their intent in their slides at the August 27 meeting, which is producer funds are not to pay for recycling collection programs. However, it would seem that a community expanding from a depot collection program to a curbside collection program would be a system improvement that could qualify for producer funding under this bullet. Is that the LG intent?

ORRA recommends the following, adding a sub-bullet after this bullet as follows:

- o Funding is limited to one-time investments and shall not include payment for on-going collection program costs.

ORRA’s intent is to maintain fee-based collection programs and not use producer funds to pay for operational expenses – labor, fuel, maintenance, insurance, admin, etc...

Commented [SM17]: ORRA RSC - We asked for right of first refusal, full cost reimbursement for infrastructure use by direct reimbursement, etc. and those were not accepted. Also, what kinds of materials are included in these depots and mobile collection events? ORRA needs further discussion on LG’s intent, with examples, so we can understand it and determine if we agree.

		<ul style="list-style-type: none"> Producers operating depots and/or mobile collection events for SIMs are required to meet collection targets by product and convenience standards to ensure accessibility and performance standards for SIMs such products not collected curbside.
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Commented [SM18]: This goes to intent. Once again, this seems to be a direct reference to SIMs, and if so, it should say that. If it is not SIMs, what is it?

PROCESSING AND MARKETING

Desired outcomes

Processing and marketing standards to ensure materials are sorted appropriately and handled responsibly and to provide transparency and accountability to those who use and pay for the system.

Equity standards that ensure workers in the system are paid living wages and benefits, and worker safety is a priority for system investments.

Equity standards that ensure access to business opportunities in the system that level the playing field and provide fair opportunities regardless of owner ethnicity, gender, disability, or firm size (see: <http://www.oregon4biz.com/How-We-Can-Help/COBID/>)

Equity standards that ensure end market communities are not burdened with plastics, air or water pollution or other negative impacts as a result of receiving materials from Oregon’s recycling system.

Equity standards that ensure vulnerable communities experience reduced exposure to harmful air emissions from processing equipment used at facilities in the recycling system. Increased use of renewable energy and phasing out use of older diesel equipment will be undertaken to attain reduced emission levels.

Extended producer responsibility obligations for consumer brands and packaging producers that sell products and packaging in or into Oregon to ensure materials are recycled responsibly and have guaranteed markets.

State or local government roles	ORSC roles	Producer role and performance standards
<p>Local governments are responsible for requiring that <i>collected covered products</i> are sent to certified processors.</p> <p>State government is responsible for certifying/permitting MRFs and establishing equity standards as part of the permitting or certification process related to worker wages, benefits, and</p>	<ul style="list-style-type: none"> Review producer stewardship plans, including their plans for ensuring collected covered products are responsibly recycled. Make recommendation to DEQ. 	<p>Producers are obligated to engage processors in order to ensure all “<i>collected covered products</i>” go to responsible markets. Producers will finance processing improvements where needed to achieve this.</p> <p>The intent is to protect the recycling system ratepayers from increased costs/reduce costs to</p>

Commented [SM19]: We need to understand the LG’s intent. There is not a clear delineation of the role of processors v. the role of producers. How can unconnected entities control another entity’s action, for example? Please clarify.

Commented [SM20]: Same comments about system cost, not just ratepayer cost, as above, starting at page 1, Current Situation.

<p>safety, impacts on host communities, and opportunities for minority and women-owned businesses to remove barriers to ownership.</p> <p>State government is responsible for reviewing and approving producers' plans for ensuring <i>collected covered products</i> are responsibly recycled (sent to acceptable markets).</p> <p>State sets criteria to define acceptable markets and includes equity criteria that ensure end market communities are not burdened with plastics, air or water pollution or other negative impacts as a result of receiving materials from Oregon's recycling system. State could utilize a third party certification program to ensure responsible recycling.</p> <p>Responsible recycling means processing collected materials at certified/permitted processors, transparently sending materials to responsible markets, ensuring that end market communities are not burdened with plastics, air or water pollution or other negative impacts. Optimal End of Life pathways and Life Cycle Assessment will inform decisions to support maximizing environmental benefits.</p>		<p>the recycling system ratepayers, and also to get materials to responsible markets. Producers are obligated to consult with certified processors in the development of their stewardship plans re: processing improvements needed to meet outcomes, and to work with certified processors to ensure all collected covered products go to responsible end markets. This could be implemented in a variety of ways and will be part of the stewardship plans submitted to the DEQ. This does not <u>prescribe</u> what arrangements parties (local governments, haulers, processors) must make to have that happen – only that the producers must put forth a plan that shows how that outcome is achieved. For example, if the producers submit a plan to the DEQ that demonstrates the “status quo” is working fine in meeting the required outcome, the DEQ would approve that plan. If the status quo won't achieve the required outcome, producers will have to take actions to make those happen. Those actions could include making investments in processors; working with processors to find or develop new and responsible, markets; providing financial subsidies; or processors <u>may, at processor's discretion,</u> transfer ownership and obligation of materials to producers. The intent of the concept is that existing infrastructure be maximized. Producer stewardship plans approved by DEQ describe how they will ensure their materials go to responsible markets.</p>
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		<p>Require PRO to include in its plan an emissions and impact analysis relative to the impacts and emissions of mechanical recycling for any material that will be marketed for use through some method other than mechanical recycling or reuse. (If the material is not recyclable by mechanical recycling, then the PRO must include in its plan an analysis relative to the impacts and emissions of disposal in Oregon's solid waste system.</p> <p>Producer performance standards</p> <ol style="list-style-type: none"> 1. All materials on the statewide collection list have a guaranteed responsible end market. 2. Recovery targets for plastics, and any other materials that would benefit from a recovery goal to drive additional processing investments are met. 3. Required 3rd party certification for environmental and social sustainability for materials that are sent to end markets 4. Required reporting on where materials are recycled - the name of the manufacturer and geographic location 5. Required reporting on final disposition of materials
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ATTACHMENT I: Post-Consumer Recycled Content Requirement

RSC confirmed general agreement on the proposal on July 22, 2020.

1. Conduct an assessment of State procurement. Assessment to include:
 - a. Evaluation of existing statutory requirements, including whether requirements are effective and are being followed. Include a quantitative evaluation of the impact and effectiveness of existing price preference (5 percent).
 - b. Feasibility study of additional opportunities to increase the purchase of products containing post-consumer recycled content (PCR), most notably products containing post-consumer recycled PET, HDPE and PP plastic. Give preference to purchases and projects funded by or with state funding.
 - c. Assessment of opportunities for strengthening traceability/verification requirements associated with recycled products and/or recycled materials, especially recycled plastic products and/or recycled plastic materials, purchased for use with state projects.
 - d. Recommended changes to statute.
 - e. *Note: Conducting this assessment is not a trivial undertaking. DAS is willing (in principle) to participate in the proposed assessment, but notes that it could have a fiscal impact on the agency.*
2. Contingent on funding (if needed), require local governments to require a minimum 10% certified post-consumer recycled plastic be used in the manufacture of roll carts, bins and containers, to be purchased by themselves or their agents, for the external collection of solid waste, recyclable and organic materials. Certified post-consumer recycled plastic must be certified in accordance with a state-approved, independent, third-party verification standard, such as the Postconsumer Resin (PCR) Certification Program established by the Association of Plastics Recyclers.
3. Include statutory mandates for PCR for priority materials sold or placed into Oregon for sale.
 - a. RSC to establish principles, not details.
 - b. Principles to consider in the creation of mandates to include, but not be limited to the following:
 - i. Must be technically achievable and realistic;
 - ii. Must be economically efficient;
 - iii. Must be environmentally beneficial;
 - iv. Must be practical to implement (regulations);
 - v. Must be subject to periodic review and adjustment.
4. If Oregon has an EPR or shared responsibility framework:
 - a. Require eco-modulation to reward the use of recycled content across all commodities.

Consider that PCR mandates (point 3) may not be necessary or could be held as a “kicker” to be triggered if desired outcomes are not met. (Note that Oregon’s existing rigid plastic container law already works this way: producers of RPCs are required to recycle RPCs at or above a statewide rate of 25%; if not, PCR requirements kick in.)

ATTACHMENT II: Truth in Labeling

RSC confirmed general agreement on the proposal on August 27, 2020.

- Repeal ORS 459A.680 (requirement to place resin identification code with chasing arrows on plastic containers.
- New Statute: for plastics, prohibit use of chasing arrows around the resin identification number.
- New Statute: Truth in Labeling – regulating the use of recycling symbol and “recyclable” claims for all products, material types, and labels.
 - Allow the symbol and/or “recyclable” claim but regulate its use:
 - unqualified use allowed only for recyclable materials widely accepted via on route collection in Oregon.
 - materials considered recyclable, but only via drop off, retail take back, etc., would require a qualified claim from producers.
 - Qualified Claim Examples: Add “please check your local program” “mail it back to us” or Terracycle option.
 - Prohibits a producer from using the “recyclability” claim on a product/packaging that is created using recycled content but cannot be recycled either via on-route or drop off collection.

Additional Considerations:

- Establish a Green Guides volunteer working group to recommend changes to the FTC Green Guides.
- RSC takes a position that states the current ASTM standard is unwelcome in Oregon and would like to see something that is less confusing.

ATTACHMENT III: Anti-Contamination Programming

RSC confirmed general agreement on the guiding principles on August 13, 2020 and on the remainder of the proposal on August 27, 2020.

Guiding Principles:

- Generator Facing Contamination Reduction Programming is permanent and ongoing.
- There should be a statewide strategy.
- There should be system support to local jurisdictions to implement CREP.
- Statewide contamination reduction efforts are appropriately funded by producers.
- The goals and communication of “the problem ” will be clearly articulated to generators.
- Generator-facing program efforts and actions being undertaken must be practical, measurable, and effective.
- There will be shared responsibility and accountability among all parts of the system. Effective feedback loops directly with the generator must occur between hauler, reload, and end-MRFs to support and sustain generator accountability.
- There will be consequences / enforcement measures that are understood and acceptable to all players that are consistently applied, effective and ongoing
- Contamination reduction program work may prioritize materials and sectors (multifamily, commercial and residential).
- Education and outreach efforts and compliance/enforcement efforts must be responsive to and inclusive of diverse populations.
- Contamination reduction program work will be evaluated on an ongoing basis.
- Decisions need to be informed by current, local data e.g. auditing/surveying to identify problem materials.
- Auditing protocols and standards will be set by DEQ, and informed by partners.

Statute Recommendation:

Direct DEQ to set statewide curbside contamination reduction goal(s); State will coordinate with cities and counties to set local goals to develop anti-contamination programming that achieves the state goal; Local governments will implement escalating programming if goals are not met.

Programming Recommendation:

Local Jurisdictions required to implement a minimum set of fixed implementation strategies and methods to reduce contamination, including escalating enforcement measures and methods that are effective and ongoing as determined by the State. Jurisdictions can propose an alternative plan so long as it accomplishes the required results (see Statute 459A).

APPENDIX IV: Processing

RSC confirmed general agreement on the inbound and outbound contamination requirements on July 22, 2020 and on the equity principles and next steps on August 13, 2020.

Inbound Contamination:

At the point of transfer, the processing or reload facility should be responsible for providing feedback to collectors and/or local governments about contamination. Feedback mechanisms should be required and standard for all transfer points, and should be part of a feedback loop that also includes required actions by local governments or other authorities overseeing generator-facing anti-contamination programming.

Outbound Contamination

Conditioned on other parts of system elements/ improvements upstream and at end markets (e.g. effective statewide list, effective generator facing contamination reduction programming, end market transparency and accountability), the ad hoc group supports that:

Conceptually, the processing system should achieve two outcomes: 1) provide markets with quality outbound materials, and 2) sort properly prepared materials so that they are delivered to their intended end markets. Processing facilities should be accountable for delivering both of those outcomes effectively.

The ad hoc group also recommends considering implementation of accountability measures over time with near, mid and longer-range targets identified. Any recommended measures should account for investments needed to allow MRFs to effectively meet the targets, as well as consideration of other outbound concerns, like which 'market' it is going to.

“How” - Implement both certification (for all facilities receiving Oregon material) and permits (for in-state facilities); contract with producers for specific “difficult” materials.

Equity in Processing

The ad hoc group agrees Oregon should establish statewide equity standards or best practices for processing facilities doing business in Oregon (and/or handling material generated in Oregon) related to initiatives such as: workforce fair wages, worker health and safety, and good neighbor or community benefit agreements.

The ad hoc group agrees on these principles of equity:

- Advancing equity is a high priority for modernizing Oregon’s recycling system, and as such needs to be supported by investments and funding.
- All processing facilities across the state should meet minimum equity standards or requirements, regardless of market impacts.
- Oregon’s recycling system should seek to equitably distribute its benefits and burdens among the individuals and communities involved in or affected by the system.
- Advancing equity for workers, business owners and host communities can strengthen the system’s resiliency and safety, and create benefits for all.

- Some standards may need to account for differences between processing facilities based on geography, markets, and business model.
- Workers should have access to wages and benefits to meet their basic needs, including stable housing, transportation and food.
- Workers should be able to work in a safe and healthy environment, free from bullying, harassment, injury and other negative health impacts.
- Host communities should be able to see processing facilities as a benefit not a burden, and should have a voice in decisions that affect them.
- The system should create opportunities for minority and women-owned businesses, and remove barriers to business ownership.
- Equity standards should be phased in over time to ensure they are achievable, and facilities should be required to implement plans for continuous improvement.

The ad hoc group supports process next steps beyond the RSC:

- RSC reviews, provides feedback and approves processing group recommendations
- Metro uses RSC approved recommendations as starting point for development of local standards that could be incorporated into Metro's MRF license agreements. This work would include additional research and stakeholder engagement. The project scope will be shared with the RSC when completed.

Metro and DEQ staff will discuss implementation details as part of the Metro project to ensure state and local regulatory roles are well coordinated and complementary.

ATTACHMENT V: Oregon Packaging Surcharge – Producer Fees Concept

RSC confirmed general agreement on the proposal on August 27, 2020.

Oregon Packaging Surcharge Concept for charging fees and raising needed funds to support modernization of Oregon’s recycling system

Concept Summary and Recommendation: Under this concept, we recommend that the State mandate producers of all subject materials (“covered materials”) to pay fees. Fees would have two components: “base fees” and eco-modulation.

- Base fees would account for the quantity and type of material, and specifically the cost and other impacts of those materials on Oregon’s recycling system. Base fees would include a minimal per unit amount on all packaging even if readily recyclable (“Level 1”). Materials covered under this program that are not currently recyclable, are difficult to recycle, or that are out-right contamination should have to pay additional base fees.
- These “base fees” would be subject to additional eco-modulation, to account for other (non-recycling) environmental considerations and to incent better disclosure, design, and impact reduction. Eco-modulation would result in net fees that are higher or lower than base fees, depending on other environmental considerations.

Concept Elements:

Base Fees

There would be three levels of Base Fees. It is important to note that under this concept, materials can move from level to level depending on their compatibility with Oregon’s recycling system. This could motivate producers to make decisions that could reduce the fees they pay.

Materials would pay base fees as follows

- Accepted for recycling and easy to recycle: Level 1 fees only.
- Accepted for recycling but more problematic to recycle: Level 1 + Level 2.
- Not accepted for recycling: Level 1 + Level 3.

- Level 1 – Charged to ALL materials: This fee is a contribution to pay for the impact that all materials have on the environment, and to support investments in Oregon’s recycling system. It is essentially a “system fee” ... for being part of the manufacturing system that generates materials that must be handled after use. Level 1 fees would be assessed in order to pay for many of the core elements of Oregon’s modernized recycling system. Exact details will be determined by the RSC. Types of program costs that Level 1 fees might pay for include (as examples):
 - Cost to process above a designated dollar amount (may relate to local landfill rates)
 - Cost to expand education at the curb (Material List; contamination reduction programs)
 - Cost to reload and deliver material from communities that do not have local access to Commingled facilities
 - Funding assistance to support rural programs (depots... or return to retail?)
 - Funding assistance to support programs in financially distressed communities
 - Funding assistance to support collection of materials that need to be segregated (depots return to retail)
 - State-wide litter prevention

- Waste prevention and reuse programming
- Feedback and consequences in every stage of the system-related to contamination (metrics and technologies to provide data-informed feedback)
- Level 2 – In addition to level 1 fees for hard to recycle packaging. These materials do have a market, but it is more expensive to process them.
 - Pay for additional costs to sort and market these materials(capital, labor, and marketing)
 - Feedback and consequences in every stage of the system
 - Cost to expand education
 - Grants to support collection of materials that need to be segregated (depots return to retail)
- Level 3 – Materials that do not have recycling markets. These materials are not currently able to be recycled and are a burden on the processing system. The materials are essentially contamination.
 - Feedback and consequences in every stage of the system. This fee would provide grants to MRFs to add equipment to remove contamination
 - Cost to expand education

Eco-Modulation

After setting base fees (based on compatibility of materials with Oregon’s recycling system), fees should be further eco-modulated. Eco-modulation is defined as an adjustment of base-fees by a specified factor (% of base fee), either upward or downward to account for environmental and other system considerations (“criteria”) that are either desired or not desired by the State. The intent of eco-modulation is to influence design and manufacturing choices.

Eco-Modulation considerations that producers must incorporate:

- a) Producers of all material/format combinations (regardless of “level” of base fees) will have their fees adjusted for any/all eco-modulation criteria that are relevant.
- b) Where practical and appropriate, criteria shall consider (but are not necessarily limited to considering) factors such as product-to-package ratio, material choice, recycled content, and the disclosure of life cycle assessments.

At a later date (sometime after voluntary disclosure of environmental impacts has been incentivized through eco-modulation), require the largest producers of covered materials to evaluate life cycle environmental impacts of such covered materials, calculated consistent with methods determined by the EQC, and submit to DEQ and disclose to the public the results of such assessment.

ATTACHMENT VI: Recycling Material Assessment Tool

This concept is included as an example of considerations and a potential framework for the stakeholder process that determines the standardized statewide recycling collection list.

