



Recycling Steering Committee

Modernizing Oregon's recycling system with support from Oregon Consensus

Legal and Relational Framework Subcommittee Meeting

August 13, 2019

Agenda

Purpose of meeting

- Identify the recycling system frameworks and related issues to discuss with Resource Recycling Systems (RRS) for feedback to help inform and refine the frameworks RRS will research.
- Discuss contracting process, schedule and next steps.

11 a.m. Provide housekeeping and frame for the day.

11:15 a.m. Discuss draft list of frameworks and issues to discuss with contractor.

OBJECTIVES

- Subcommittee provides feedback on draft list of frameworks and identifies frameworks and issues to discuss with RRS.
- Subcommittee identifies any additional information needed to help inform future decisions around frameworks for Oregon.

12:15 p.m. Discuss steps in the contract process.

OBJECTIVES

- Subcommittee members understand contract process.
- Subcommittee members to participate in the contract process are identified.

12:50 p.m. Wrap up and summarize next steps and any deliverables.

OBJECTIVES

- If needed, homework for the subcommittee is determined.
- Deliverables and responsibilities are listed.
- Next meeting date is confirmed.

1 p.m. Adjourn

Action Item Memo

Subcommittee Members Present:

Pam Peck, Loretta Pickerell, Amy Roth, Kristin Leichner, Dave Larmouth, Sarah Grimm, Shannon Martin, Timm Schimke, Michael Wisth

DEQ Staff: Justin Gast, Peter Spendelow and Steve Siegel

Facilitation Team: Robin Harkless and Amy Delahanty

ACTION ITEMS:

ACTION	BY WHOM?	BY WHEN?
<ul style="list-style-type: none">DEQ will summarize frameworks and questions to prepare for meeting with RRS.	Justin Gast to subcommittee	8/22/19
<ul style="list-style-type: none">Circulate draft subcommittee notes to the group.	Oregon Consensus	Completed.

Intros/Frame for the Day: Robin Harkless, Oregon Consensus, reviewed the agenda and goal for the day, which was to review with the subcommittee the proposed legal/relational frameworks linked to the desired functions; and timeline for contracting. The subcommittee also had an opportunity to provide feedback/narrow the frameworks to a set of 10 for guiding the selected contractor team's first task.

Frameworks Review

Justin Gast, DEQ, reviewed this agenda topic with the group. Justin noted the intent of the Proposed Frameworks for Recycling System Frameworks Research document presented before the Legal and Relational Frameworks Subcommittee was based on feedback from its July 30, 2019 meeting. (*See Proposed Frameworks for Recycling System Frameworks Research document for additional detail.*) Justin shared DEQ staff proposed the 13 frameworks for the subcommittee's consideration and discussion, but looked to the group to narrow the frameworks to approximately ten. It was noted the proposed frameworks would be used for discussion with Resource Recycling Systems (RRS) for inclusion in recycling system frameworks research. There was a possibility to add an additional framework that wasn't reflected in the document, but Peter Spendelow noted DEQ wanted to make sure there was funds available for any follow up in the research process. Justin then shared the proposed frameworks was intended to show a full spectrum of for evaluation, allowing the contractor, subcommittee, and Steering Committee, to select elements from the suite of options to develop hybrid framework scenarios that will best achieve the functions desired for Oregon's future recycling system.

Justin reviewed the proposed thirteen frameworks including justification why the framework is suggested for study with the group. The subcommittee then engaged in a discussion of which frameworks could be eliminated or consolidated to narrow the options to ten frameworks. There were proposals to eliminate framework #1; consolidate all frameworks related to MRFs; and consider eliminating any frameworks that aren't realistic for implementation in Oregon. Regarding striking frameworks that aren't feasible to be implemented, DEQ reiterated the State needs to show a broad array of frameworks and analyze the full

suite (small to large system changes). The Steering Committee would later narrow those frameworks to those that are considered feasible for Oregon. After some discussion about options that could narrow the list to ten, **the following were agreed upon frameworks to remove:**

- **Framework #3** (it isn't statewide and elements of this could be covered under framework #6.
- **Framework #4**
- **Framework #7:** currently in the legislative process and would be too difficult to track all of the changes

Proposal of frameworks to recommended to bring up with contractor:

- Model supporting bi- state / regional infrastructure cooperation.
- State of Connecticut's framework

Contract/ Research Process and Timeline

Peter Spendelow described the RFP review, selection, research process and timeline. (*See Legal and Relational Frameworks Subcommittee Contract Phase document for additional details.*) DEQ then asked if there were any subcommittee members that would like to be part of the contract committee with DEQ and RRS. Amy Roth and Pam Peck agreed to assist in this effort.

Next Steps

DEQ will work with the contractor committee to finalize the Legal and Relational Frameworks contract. It's expected this process will take a couple of weeks. As a result, the next subcommittee meeting will be on **September 3rd 12:00-1:30p.m.** to review criteria, approach and functions.



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Proposed Frameworks for Recycling System Frameworks Research, 8/12/19

Based on feedback from the Legal and Relational Frameworks Subcommittee at its July 30, 2019, meeting, DEQ staff have proposed the frameworks below for the subcommittee to consider for discussion with Resource Recycling Systems (RRS) for inclusion in recycling system frameworks research. The intent is to include a full spectrum of frameworks for evaluation, allowing the contractor, subcommittee and steering committee to select elements from multiple frameworks to develop hybrid framework scenarios that will best achieve the functions desired for Oregon's future recycling system.

Frameworks proposed for research

1. Local government(s) contracts with MRF to process and market materials

Currently, local governments (LGs) in Oregon generally do not exercise control over what happens to the recyclable materials collected by their recycling collection service providers. The recycling collectors themselves make arrangements with material recovery facilities (MRFs) for distribution of collected material.

Under this framework, municipalities, or a consortium of LGs or wastesheds, would contract with MRFs for processing and marketing of materials collected by their jurisdictional program, contracts that would require a program's recycling collection service provider to deliver the collected recyclables to MRF(s) under contract with the local government or combined entity.

WHY THIS FRAMEWORK IS SUGGESTED FOR STUDY

- This framework wouldn't completely alter Oregon's current system, but it would allow local governments to have more control over material collected by their jurisdictional programs and setting standards for how material is processed and marketed.
- Evaluation of this framework can include how contractual controls would be used to achieve Functions. Subcommittee may suggest performance features, for example:
 - Specifying the sharing of the risk / profits if recycling markets go up or down.
 - Setting standards for the processing and marketing of material, such as management practices to protect public health, the environment and worker safety; sorting accuracy for accepted materials; tracking and reporting on downstream processing and marketing.
 - This framework resembles Oregon's conditions and includes provisions that Oregon's local governments may be interested in. Such features and provisions could include:
 - MRFs contract with multiple local governments or wastesheds (versus one city contracting with one MRF) and may deal with different standards in different contracts. Oregon's MRFs all handle material from multiple jurisdictions.

- Local governments use franchised garbage collection or contracted collection with a contractor different than the MRF operator for recycling collection.

2. State contracts with MRF to process and market materials

Somewhat similar to framework #1, but, instead of LGs, the state would develop contracts with multiple MRFs, including potentially MRFs beyond Oregon's borders, contracts that would be written in such a way that local governments would be able to use them.

Features of this framework approach include:

- Contracts could specify standards for processing or marketing of material.
- Contracts could be produced in a way to provide economies of scale, such that small collection programs are not disadvantaged economically.
- Contracts could be used in a manner to insure the proper management of commingled material that is sent out-of-state for processing, in a manner that is not possible using direct regulation.

WHY THIS FRAMEWORK IS SUGGESTED FOR STUDY

- This framework could allow the state to set the standards for how material is processed and marketed, and to create greater equity regarding costs and revenue from recycling for programs of different sizes and locations.

3. Solid Waste Management Coordinating Board (SWMCB) (Minneapolis-St. Paul region)

Outside of the Portland Metro area, there is little formal coordination among neighboring counties when it comes to harmonizing and/or standardizing recycling and other solid waste management-related programs or efforts.

In 1990, officials representing counties that makeup the greater Minneapolis-St Paul metro area, as well as members of the Minnesota Pollution Control Agency, created a joint powers board whose mission is to increase efficiency and environmental effectiveness of the region's solid waste management system.

Examples of efforts the Solid Waste Management Coordinating Board undertakes include:

- Promotion, grants and market development
- Community and outreach
- Data collection and research
- Working with local partners on a HHW reciprocal use program
- Coordinated policy development and planning

WHY THIS FRAMEWORK IS SUGGESTED FOR STUDY

Such coordinating authorities could produce more standardized, harmonized municipal policies and programs within a region, especially around the education and outreach associated with those programs.

4. Universal Recycling Law (State of Delaware)

Though Oregon has many established laws and requirements focused on improving recycling statewide, commercial recycling is not mandatory statewide like it is in states such as California and Delaware. In Oregon, mandatory commercial recycling is a program element that cities and counties can choose to implement, but only some cities have actually implemented this program element.

In an attempt to improve recycling rates statewide, Delaware lawmakers in 2010 enacted the Universal Recycling Law (Senate Bill 234), which mandates that all service providers who provide residential trash collection service must provide recycling collection service as well. Requires businesses, schools, nonprofits and government services to participate in a comprehensive, universal recycling program, too.

Notables of the legislation include:

- Established a statewide goal of achieving 60% diversion by 2020.
- With the move to universal recycling, the law eliminated the state's Bottle Bill.
- Established a temporary four-cent, non-refundable per-container fee that sunset in 2014. Funding from the Delaware Recycling Fund was used to: provide low-interest loans and grants to service providers to help offset start-up costs for offering services; conduct a study on how to implement the commercial recycling program; and, cover program-related administrative costs.

WHY THIS FRAMEWORK IS SUGGESTED FOR STUDY

- To determine whether or not statewide mandatory recycling is something Oregon needs to consider to progress efforts statewide, though it should be noted that eliminating the state's Bottle Bill for a move toward universal recycling would not be an option for Oregon with this framework.
- Get a better understanding of the roles and responsibilities of the players operating in Delaware, most notably the Delaware Solid Waste Management Authority (DSWA). About the DSWA:
 - Created by the state, the authority owns the state's only MRF but contracts services out to Recommunity (Republic Services).
 - Operates drop-off centers for numerous items such as HHW, electronics and organics.
 - In charge of licensing haulers statewide.
 - Works with DNREC on education efforts.

5. State certification of MRFs

This framework is somewhat similar to the state contracts portion of framework #1 except, rather than developing contracts, the state would set statewide MRF standards and MRFs would apply for certification that they meet those standards. We are not aware of any such certification program for the processing of recycling in any jurisdiction.

Under this framework, the state or a third-party organization would develop standards for processing and marketing of material, such as setting requirements on the mis-sorting and/or disposal of recyclable program material. The certifying body would also set up a system to inspect and certify that facilities are meeting the standards. Plus, the framework would establish reporting requirements related to the end-market destination of processed commodities.

Local governments would require collectors to provide collected material only to MRFs that meet the standards.

WHY THIS FRAMEWORK IS SUGGESTED FOR STUDY

- Such a certification program would add an element of transparency and accountability to Oregon's system that's not currently in place. For example:
 - The reporting requirement of the framework would allow municipalities to know the destination of materials generated by their collection programs.
 - Such a certification program would ensure that materials leaving Oregon aren't ending up in end-markets where they are causing environmental justice issues.
- Similar to the state contract framework, this would allow standards to be followed in areas outside of Oregon, in a manner that cannot be done through direct regulation.

6. Sustainable materials management coordinating board

This framework does not reside in the makeup of any state's recycling system. It would be a new program oversight and decision-making concept for Oregon.

Such a coordinating board would be a statewide decision-making entity with multi-stakeholder representation, including stakeholders such as producers, who are often not included in other solid waste and recycling management decisions.

- Board could be the entity that oversees the certification program noted in framework #3.
- Board could be a decision-making entity that prioritizes materials to be collected for reuse and recycling.
- Board could also assist in other upstream efforts to implement Oregon's 2050 Vision.

WHY THIS FRAMEWORK IS SUGGESTED FOR STUDY

The RFP asked bidders to submit hybrid frameworks, as well as frameworks that include elements that may not exist in any current recycling system. This is one of those concepts that may or may not be beneficial for Oregon's future recycling system. Further details on such a framework will help DEQ and its partners determine the feasibility and desire for such a board for Oregon's recycling system.

7. EPR for packaging and single-use plastic products (California — Assembly Bill 1080 / Senate Bill 54)

Oregon currently does not have any producer participation or responsibility with respect to the state's recycling system. The focus of these proposals would move California in the direction of producer responsibility for packaging and priority single-use plastic products (i.e. top 10 forms of plastic litter in CA).

As a condition of sale of single-use plastic packaging or priority single-use plastic products into the California market, manufacturers of single-use plastic packaging or products must put in place packaging recovery efforts that result in:

- A recycling rate of not less than 20% as of January 1, 2024.
- A recycling rate of not less than 40% as of January 1, 2028.
- A recycling rate of not less than 75% as of January 1, 2030.

Manufacturers would be required to ensure that, by 2030, all single-use packaging and priority single-use plastic products put into the California market are recyclable or compostable.

The legislation also would:

- Require the above recycling actions to achieve, by 2030, a 75% reduction in single-use packaging waste and a 75% reduction in waste generated from priority single-use plastic products.
- Include a provision establishing post-consumer recycled-content (PCR) requirements for single-use packaging and priority single-use plastic products.

WHY THIS FRAMEWORK IS SUGGESTED FOR STUDY

Such a law could have an impact on Oregon and other states, especially with respect to how packaging and single-use plastic products are designed under other potential laws or programs. For example, under this framework, covered products would be designed to be either recyclable or compostable by 2030 and include some level of PCR. What about other life cycle impacts? Stricter packaging laws/programs in other states could be impacted, as manufacturers would redesign their products to meet the demands of a state that is the world's fifth biggest economy.

8. Producers responsible for providing a market for materials, but not collection

There currently is no producer involvement in Oregon's recycling system. MRFs, or brokers working with local MRFs, are solely in charge of finding markets for materials processed by their respective facilities. For some materials, such as plastics, the payments MRFs receive for processing and selling the material do not even cover the cost of processing, much less the transportation costs of getting those commodities to market. As a net result, these materials may end up being excluded from collection programs, or processors may have difficulty competing with virgin material prices for selling their material, unless ratepayers are willing to subsidize the processing costs. Also, processing costs associated with local MRFs are covered a couple different ways, most notably by ratepayers. Under this proposal, Manufacturers would be responsible for covering processing and transportation costs, plus ensuring markets for materials recovered by the statewide system.

WHY THIS FRAMEWORK IS SUGGESTED FOR STUDY

- This framework could possibly allow processors to sell each of their commodities at a price that would make recycled material at least cost-competitive with virgin material, thus making post-consumer recycled content material look more attractive from the feedstock standpoint.
- This framework could also possibly provide an incentive for producers of plastic products, and potentially other materials, to use more recycled content, since they would not have to pay a price premium for the recycled manufacturing feedstock, thus increasing the market demand for the material and the replacement of virgin material

9. Shared responsibility EPR system (Manitoba)

Currently there is no direct producer involvement in Oregon's recycling collection and processing system for packaging and for paper products.

Manitoba has a shared producer responsibility-based system for the collection and processing of packaging and printed paper (PPP).

- 80% of system costs funded by producers and 20% by local municipalities.
- Beverage redemption program not impacted by system.
- All forms of residential and industrial, commercial and institutional (IC&I) packaging and printed paper (PPP)-based materials are covered by the system.
- Municipalities and municipal groups are responsible for designing and implementing their respective recycling program, including the type of collection, frequency of collection, and materials collected.
- Municipalities have the option of contracting their collection, sorting and marketing of materials to private waste management companies.

WHY THIS FRAMEWORK IS SUGGESTED FOR STUDY

- Since Oregon does not have direct experience in producer responsibility systems, it would be good to study a wide range of producer responsibility programs to know the range of options we could choose from.
- Manitoba has a shared responsibility program where both the producers and the municipalities have some requirement to be involved in collection and processing system.
- The Manitoba system includes industrial, commercial and institutional material as well as residential material.

10. Full producer responsibility EPR system (British Columbia)

Currently there is no direct producer involvement in Oregon's recycling collection and processing system for packaging and for paper products.

The British Columbia system is a fully producer-governed and financed programs for all residential and public space PPP material. Other notables about the system include:

- Beverage redemption program not impacted by system.
- Local governments can opt in to having stewardship organization provide collection.
- Robust curbside and drop-off collection for program materials (e.g., flexible pouches collected via drop-off centers).
- Includes an eco-design-based incentive, which for Oregon could be modified to consider life cycle impact.
 - Incentivizes manufacturers to redesign products to reduce the use of toxic substances and extend product life spans by making products more durable, reusable and recyclable.
 - Incentive is structured such that, producers that supply different types of PPP that are currently not recyclable will pay additional fees that are intended to cover research and development to resolve technical and market capacity barriers, so that the currently non-recyclable products can be included in the collection system over time.

WHY THIS FRAMEWORK IS SUGGESTED FOR STUDY

- British Columbia is a fellow Pacific Coast jurisdiction, and many in Oregon have some familiarity with the British Columbia system. The system is also considered the most notable EPR program for PPP operating throughout Canada.
- The system for processing materials in British Columbia seems fairly efficient and may provide valuable information.

11. Previous shared responsibility EPR system vs. current full producer EPR responsibility system (Ontario EPR)

As noted in the previous EPR-related frameworks, there currently is no direct producer involvement in Oregon's recycling collection and processing system for packaging and for paper products.

Ontario had a shared responsibility program where producers and municipalities each were responsible for funding 50 percent of the collection and processing costs for residential PPP material. The province is currently transitioning to a full producer responsibility-based program for all residential PPP material. Full transition is expected to be complete in 2021. Other notables about the system include:

- Beverage redemption program is not impacted by system.
- Single- and multi-stream focused system, though there will eventually be one harmonized list of acceptable materials for the entire province.
- Increased diversion rate target of 75% for PPP materials supplied to transitioned-municipalities. Target is expected to be achieved two years post full provincial transition.
- Includes an "eco-design component that could be modified to consider life cycle impact.
- Upon complete transition to full producer responsibility, the Continuous Improvement Fund will end.
- The newly created Resource Productivity and Recovery Authority will implement circular economy strategies and oversee EPR programs, among other things.

WHY THIS FRAMEWORK IS SUGGESTED FOR STUDY

- Studying a system that's transitioning from a shared to full responsibility system provides us details and insight on the advantages and disadvantages of both systems and why one would be preferred over the other as a statewide system.

12. Full producer responsibility EPR system, use of fees to encourage eco-design of products (France)

France has a full producer responsibility system focused on residential and some public space material. France's program uses eco-modulated fees to encourage eco-design of products:

- A new fee structure for plastics will create seven plastics categories beginning in 2020, with the modulated fees being revised each year.
- Flexible packaging could carry an extra 30% penalty; rigid PS packaging a 40% penalty; complex packaging (multilayer) and other resins (except PVC) a 50% penalty; and, rigid and flexible packaging containing PVC a 75% penalty (increasing to 100% by 2022).
- Bonuses are provided for efforts such as weight and volume reduction, on-package sorting instructions, use of recycled content, etc.

WHY THIS FRAMEWORK IS SUGGESTED FOR STUDY

- Provides documented information on using modulated fees to drive improvements in the upstream design of packaging.

13. Full producer responsibility EPR system, moving from voluntary to mandatory producer participation (Germany Packaging Act)

Germany's EPR system for packaging was recently updated from a program where manufacturers and producers voluntarily paid into the system to have their packaging recognized by the Green Dot program and collected curbside to one that now obligates manufacturers and packaging producers to register and participate in the EPR system.

- New full producer responsibility program (VerpackG) recognizes all forms of residential packaging coming into Germany, excluding beverage container-related packaging covered by nation's redemption program.
- Producers placing packaging or packaged goods for the first time into the German market, products intended for residential use, will be required to join the program.
- Unlike most EPR systems for PPP, where one producer responsibility organization (PRO) is responsible for overseeing the entire system, the updated Packaging Act encourages competition, allowing for more than one PRO to exist.
- Establishes higher recycling targets for all materials recognized by the system.
- Producers who fail to comply with the new law face significant fines (up to \$222,641 USD) and potential trade sanctions.
- Act also puts requirements on retailers to be more responsible for promoting the use of eco-friendly and recyclable packaging.
- Includes an eco-design component.

WHY THIS FRAMEWORK IS SUGGESTED FOR STUDY

- Germany has a long history of producer responsibility for packaging. Changes in Germany's programs could provide information on strengths and weaknesses of different approaches.
- It's being touted that a system that operates with multiple PROs leads to lower prices, better service and increased performance. Is this true?

Frameworks not considered

Other frameworks discussed at the 7-30 subcommittee meeting had less subcommittee interest and are not recommended for further study:

- Frameworks that were primarily funding mechanisms.
- Frameworks based on voluntary participation from producers, collection service providers, etc.
- Frameworks focused on government-operated collection or processing services.
- Similar frameworks to those proposed above (e.g., Producer governance — brand owner: British Columbia, Ontario and Quebec).



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Legal and Relational Frameworks Subcommittee — Contract Phase

8/7/19

- ✓ Notify Resource Recycling Systems (RRS) of an intent to award (DEQ)
 - ☐ Discuss proposed frameworks (subcommittee) – 7/30
 - ☐ Identify frameworks/interests to discuss with RRS (subcommittee) — by 8/13
 - ☐ Identify subcommittee members to engage in contract negotiations — by 8/13
 - ☐ Negotiate contract with RRS (negotiation team and RRS)
 - ☐ Identify any changes to Functions to include in contract
 - ☐ Discuss any RRS recommendations for changes to the Functions to support evaluation of frameworks
 - ☐ Get subcommittee and SC feedback on any changes to Functions negotiations team recommends be included.
 - ☐ Identify Frameworks to be evaluated
 - ☐ Discuss subcommittee's proposed frameworks/interests with RRS
 - ☐ Get subcommittee feedback on recommended changes to proposed frameworks
 - ☐ Finalize frameworks to be researched
 - ☐ Define timeline for contract deliverables
 - ☐ Propose method for evaluating frameworks, including evaluation criteria for Functions (**deadline: TBD**)
 - ☐ Finalize evaluation method following review by subcommittee (**deadline: TBD**)
 - ☐ Submit initial draft report (results of framework evaluations results and five framework scenarios) (**deadline: TBD**)
 - ☐ Draft report to include results of evaluation and frameworks scenarios. Refine evaluations and framework scenarios following review by subcommittee/SC (**deadline: TBD**)
 - ☐ Submit final report (**deadline: TBD**)
 - ☐ Background material/presentations needed for subcommittee meetings and workshop (**deadline: TBD**)
- ☐ Finalize contract (**deadline: 8/23**)
- ☐ RRS to begin research