



# Subcommittee Recommendations: PRO Plan Amendment #1 (Submitted May 16, 2025)

Prepared for the Oregon Recycling System Advisory Council

Last updated July 14, 2025

This document was prepared by DEQ for the Oregon Recycling System Advisory Council's regular meeting on July 16, 2025, and contains the proposed recommendations of the Council's Finance subcommittee. The proposed recommendations were developed during a work session on July 1, 2025, and represent the work of the Council members of the subcommittees.

The proposed recommendations will be reviewed and discussed by the full Council on July 16, 2025. Following that meeting, a proposed-final set of recommendations will be circulated by DEQ for Council review and a vote, in support or not in support, sought by email. All recommendations that are supported by a majority of the Council's voting members will be provided to DEQ and CAA in writing.

## Subcommittee recommendations

Subcommittee discussion and background information is provided below to assist in full Council consideration of the following four issues and four draft recommendations:

**Issue #1: Is the size of the proposed bonus (e.g. the bonus magnitude, cap, and duration) adequate to incentivize transition to reuse?**

**What the plan proposes:** The plan proposes three different approaches to three different scenarios involving transition from single-use to reuse-refill for which the producer successfully demonstrates in their life cycle evaluation >10% impact reduction. See the table below for tabular representation of the parameters that collectively comprise the size of the incentive (previously approved Bonus A and B are included for comparison's sake):

Scenario	Bonus Magnitude*, as percent of primary packaging materials' base fees (for three tiers of impact reduction)			Overall Bonus Cap	Bonus Duration
	Tier 1: 10-40% impact reduction	Tier 2: 40-70% impact reduction	Tier 3: >70% impact reduction		
Bonus A (simple disclosure)	10%			\$20,000	One year, no option to reapply
Bonus B (any substantial impact reduction except transition to reuse/refill)	20%	22.5%	25%	Tier 1: \$40,000 Tier 2: \$45,000 Tier 3: \$50,000	One year, no option to reapply
Bonus C: Transition to reuse with projected reuse rate used in the analysis	Bonus magnitude is 20% for any impact reduction of 10% or more.			\$40,000	Three years, with no option to reapply with continued use of projections, but possibility to reapply using actual return rates (see next row of table).
Bonus C: Transition to reuse with actual reuse	20%	22.5%	25%	Tier 1: \$40,000	Three years, with option to reapply every three years thereafter through updated LCE

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rate used in the analysis				Tier 2: \$45,000 Tier 3: \$50,000	submissions, as long as substantial impact reduction is demonstrated.
Bonus C: Transition to refill with actual refill rate used in the analysis	20%	22.5%	25%	Tier 1: \$40,000 Tier 2: \$45,000 Tier 3: \$50,000	One year only, with option to reapply once a year thereafter through updated LCE submissions, as long as substantial impact reduction is demonstrated.

\*Magnitude of the bonus to be granted as long as the total bonus amount is below the cap. If sales volumes are adequately substantial so as to trigger the cap, then the percent discount applied to the base fees is scaled downward to that which yields the cap amount.

CAA's proposal to treat these three scenarios differently:

- implements the "three-year grace period for new reusables" from the life cycle evaluation rules, which aims to incentivize new transition to reuse even though the program may not yet be yielding >10% impact reduction in its (three-year) start-up phase. This grace period is for reusables only because refillable packaging does not need to be returned through commercial or publicly-owned return and washing infrastructure, and therefore do not face the same start-up challenges as reusables, and
- gives a greater incentive to reuse programs that *are definitely* already achieving >10% impact reduction in their start-up phase and can demonstrate this with actual data vs. reuse programs that initially use projections in their analysis.

CAA also proposes to cap producers to 10 submissions for life cycle evaluations of individual SKUs or SKU batches in a given fee year.

**Public comment overview:** Multiple public comments questioned whether or not the incentive would be sufficient to even cover the cost of conducting the life cycle evaluation, much less the cost to the company of switching from single-use to reuse. Among several comments received, there were proposals to increase the bonus magnitudes, the bonus caps, and/or remove the 10 SKU submission cap.

**DEQ preliminary opinion:** DEQ waste reduction hierarchy supports substantial bonuses for substantial impact reduction achieved through transition to reuse/refill, and isn't sure that the proposal is adequate to deliver that outcome. The bonus magnitudes for the three tiers of impact reduction seem particularly to not be considerably differentiated from one another (e.g. 10% impact reduction gets you a 20% bonus, whereas 75% impact reduction would get you a 25% bonus, only 5% more when you've achieved a 65% greater reduction in impact), meaning the incentive for larger-scale (tiers two and three) impact reduction may be insufficient. However, DEQ may allow for the program to be implemented by CAA as proposed with adjustments made in future years if participation is low.

#### Subcommittee discussion:

- The entire group voiced an aspiration to incentivize transition to reuse/refill as much as possible, while acknowledging that CAA has to manage the financial implications of giving very large bonuses.
- There is uncertainty as to what size/duration of bonus would serve as a functional incentive. Factors in this uncertainty include:
  - Variable costs of conducting an LCA and obtaining 3<sup>rd</sup>-party review, depending on whether or not you have in-house analysis capacity or not, and whether or not the analysis rules have been automated by the LCA consulting industry. Costs could be as low as \$20,000 and as high as \$100,000, based on feedback from producers and DEQ research for the fiscal impact sections of prior rulemaking.
  - How important the reputational value is of achieving Oregon's bar for substantial impact reduction.

- Size of business. For a very large business, it is possible that a bonus sized as a percent of material base fee in an EPR program, as is proposed by CAA and done in almost all global EPR programs, won't be an effective incentive, no matter the size of the bonus, because:
  - The EPR base fees are a small percentage of the overall cost of the product, meaning the EPR fee is small vs the cost to the company to transition to reusables
  - Because you only pay base fees once for each introduction of reusable packaging onto the market, the base fees for reusables are comparatively minor.

As such, the subcommittee thinks attention should be paid to small and mid-sized businesses, as well as Oregon/Pacific Northwest-local businesses, when gauging whether or not the incentive is sufficient.

**Subcommittee recommendation:** The subcommittee recommends that the full Council consider pros and cons of increasing the bonus incentive by one of the following means:

- a) Increasing the tier two and three bonus magnitude percentages for transition to reuse using actual data for reuse rate, and for transition to refill
- b) Increasing the tier two and tier three bonus caps for transition to reuse using actual data for reuse rate, and for transition to refill,
- c) Doing both a) and b).

## Issue #2: Is the different treatment of reuse vs refill appropriate?

**What the plan proposes:** See table above – refill bonuses are only one year in duration, with opportunity to renew in perpetuity, and must use actual refill rate data. Reuse bonuses are three years in duration with opportunity to renew in perpetuity and option to use projected reuse rate for the first bonus evaluation.

**Public comment overview:** Several commenters expressed concern that the bonus would be applied to both refillable and single-use components that together comprise delivery of a refillable packaging product – for example, a refillable soap dispenser and the single-use-packaged refill capsules. The commenters proposed restricting the bonus to the refillable component only. These comments may stem from concerns in the advocacy sector that companies will use at-home refill, more of a business-as-usual approach with uncertain levels of consumer engagement, to meet source reduction mandates in places like California instead of transition to reuse, which is more of a system change involving buildout of new infrastructure.

**DEQ preliminary opinion:** DEQ does not see an issue with incenting refill substantially (eg incenting both the durable and the single-use components in a refillable product delivery system) *if* it is achieving substantial impact reduction, but is concerned about room for producers to “fudge” on refill rate, a key input parameter into a life cycle evaluation, which could result in inaccurate rates depending on the quality of the data submitted. Reuse rate is simpler to estimate accurately because there is data on return of the packaging to the return/washing hub. However, since refill depends on what a consumer does at home, which is not visible to the producer, it is harder to generate an accurate refill rate calculation. Sales data and consumer surveys can provide a picture of consumer participation, but sales dynamics can shift for various reasons, and single-use-packaged refills can often be used as stand-alones or interchangeably among producers, meaning that you cannot simply divide the number of refillable component purchases by the number of refill component purchases to calculate the refill rate.

DEQ prefers a high bar for data quality with respect to the refill rate calculation and the requirement that it be drawn from actual data, meaning that some producers of refillables may be unable to qualify for the bonus.

**Subcommittee discussion:** Subcommittee members voiced opinions from multiple sides on this issue – including that the bonus might not capture all impact reduction activities, it could incentivize reuse in the longer-term without undue consumer effort in the short-term, and that it may need addition of an attribute-based bonus for refill to address the problem that a key parameter cannot be accurately measured.

**Subcommittee recommendation:** The subcommittee recommends that the Council look at pros and cons of three options:

- a) Address the problem of potential inaccuracy of refill rate by setting a high bar for refill rate data quality in DEQ guidance,

- b) Address the problem of potential inaccuracy of refill rate by limiting the size of the bonus for transition to refill, applying the bonus only to the refillable component and not to any single-use components of the refillable delivery system, or
- c) Do neither a) nor b) and start the program as is / adapt later.

### **Issue #3: Is the right balance achieved between incentivizing established reuse programs that are delivering impact reduction vs incentivizing new reuse programs whose benefits may yet be uncertain?**

**What the plan proposes:** See table above, when projections are used for reuse rate (e.g. for a reuse program in its start-up phase) the max bonus magnitude and max bonus caps are smaller (e.g. 20% bonus and \$40,000 cap) vs when actual data for reuse rate are used (e.g. 25% bonus and \$50,000 cap). Additionally, on pg 218, there is suggestion that the bonuses be limited to systems that are established at an adequate scale and access within Oregon.

**Public comment overview:** Several commenters indicated that imposing a minimum threshold for scale and access would pose an unnecessary barrier to new reuse programs, and asked that the text in question on pg 218 be removed.

**DEQ preliminary opinion:** DEQ agrees that use of actual data should be incented more than the use of projections, but wants new reuse start-ups that make use of the three-year grace period for projections to not be overly penalized for their use of projections. The CAA proposal appears to provide a balance of approaches, with a modest incentive to use real, not projected, data.

**Subcommittee recommendation:** Agrees with DEQ preliminary opinion and agrees with public comment that encourages removal of the plan text regarding a minimum threshold for scale and access from pg 218.

### **Issue #4: Is the proposal for where to draw bonus funds effective for a) ensuring continual incentivization of impact reduction across the collective of producers, and b) limiting cross-subsidization among materials? (these are two statutory requirements on fees)**

**What the plan proposes:** CAA proposes to draw funds for the bonuses in a material-specific manner if the impact reduction action involved no material switching, and to draw funds from a pool across all producers and materials if material switching has occurred.

**Public comment overview:** Several commenters asked that the bonuses always be paid from a pool across all producer fees and material categories, regardless of whether or not material switching has occurred, citing the potential for conflict among producers in a given material category if bonuses are drawn from material-specific pools.

**DEQ preliminary opinion:** If a plausible case can be made that paying fees out of material-specific budgets will adversely impact the ability of the ecomodulation program to deliver its primary statutory function of continual incentivization of impact reduction, then DEQ is open to a pooled approach because it follows the statute to prioritize impact reduction over limiting cross-material subsidization with respect to ecomodulation. However, DEQ does not see that case clearly outlined in the public comment, and as such is amenable to starting the program with CAA's proposal and assessing progress along the way.

**Subcommittee recommendation:** The subcommittee is amenable to starting the program as proposed, but recommends that the Council have a more general conversation about pros and cons of material siloing in ecomodulation vs. pooling across materials.

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