



Covered Products vs. Material Acceptance Lists

Background paper for Oct. 20, 2022, Oregon Recycling Council Meeting

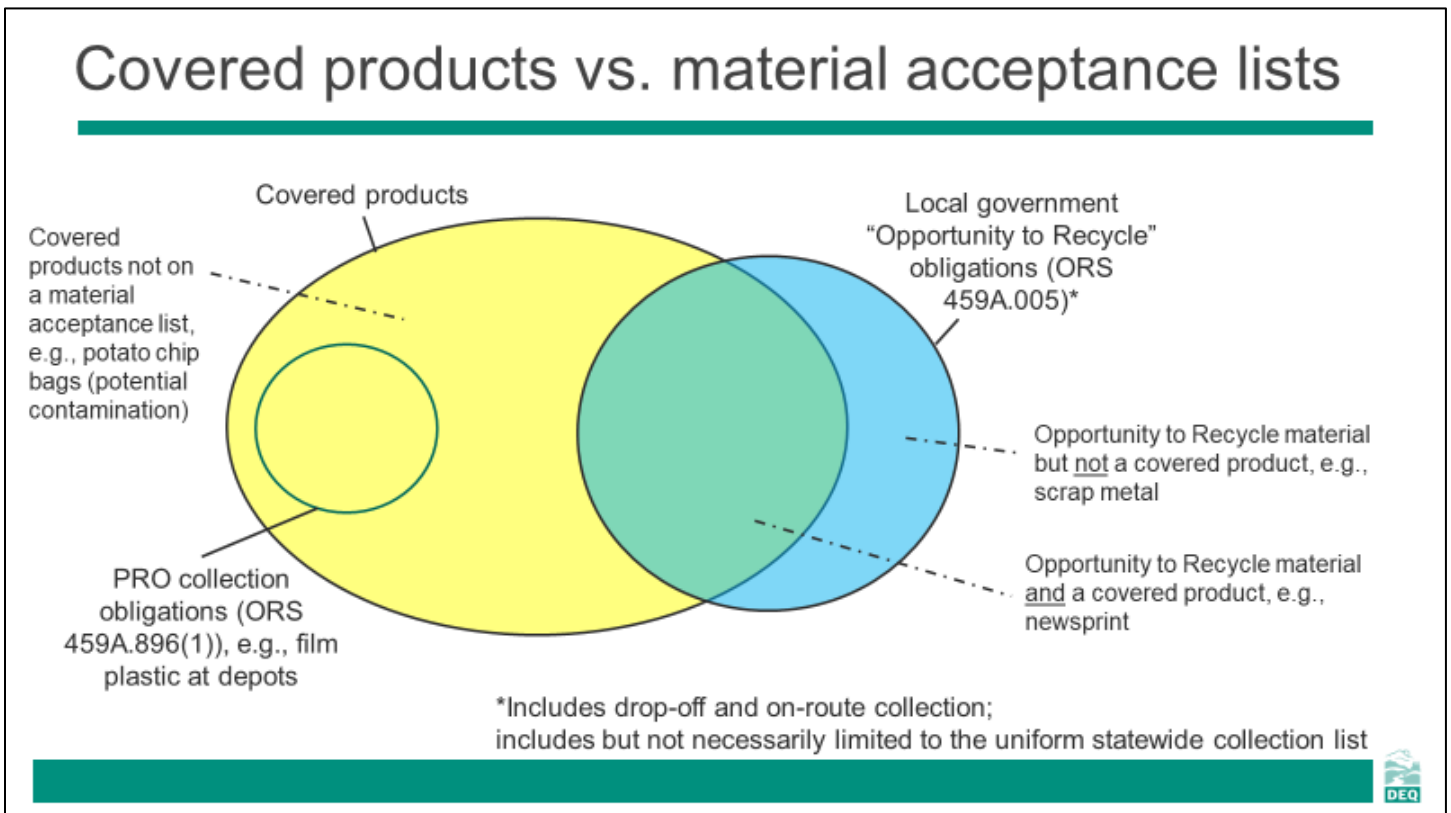
This document provides a response to requests made at the Aug. 18, 2022 meeting of the Recycling Council for clarification on the relationship between “covered products” and “material acceptance lists”.

Definitions

ORS 459A.863 defines “**covered products**” to mean all packaging, printing and writing paper and food serveware, unless exempted.

ORS 459A.914 directs the Environmental Quality Commission to identify materials suitable for recycling in Oregon. The resulting rules will establish two primary lists of materials – one which regulated local governments must collect for recycling, and one which producer responsibility organizations or PROs must collect for recycling, such as through depots. These are referred to as “**material acceptance lists**”. Figure 1 below illustrates the relationships between different lists, and a description follows.

Figure 1



How do “Covered Products” and “Material Acceptance Lists” Overlap?

The yellow oval in Figure 1 depicts materials defined as covered products. The blue circle depicts materials designated for local government recycling obligations. The circle within the yellow oval depicts covered products designated for PRO recycling obligations.

Some covered products (e.g., polycoated paper cartons, such as milk cartons) may be placed on either the PRO or local government material acceptance list for recycling, while others (e.g., potato chip bags) likely will not.

- All materials designated as PRO recycling obligations *must* be covered products; PROs cannot be required to operate recycling services for any material that is not a covered product.
- Among materials on the acceptance list designated as local government recycling obligations, many may also be covered products (e.g., plastic bottles), but a few might not be (e.g., scrap metal or motor oil).

What Obligations do Producers and PROs Have for Covered Products?

Producers of all covered products (regardless of their placement on a material acceptance list) are obligated to:

1. Join a PRO,
2. Report quantities of covered products sold or distributed in Oregon, by material type, and
3. Pay fees based on those quantities and types of materials for all covered products.

Whether a covered product is on or off a material acceptance list may change the fees that producers pay to their PRO, but it does not change the three obligations described above.

Certain obligations of **PROs** extend to all covered products, while others depend on whether or not a covered product is placed on either material acceptance list. In summary:

- For covered products that are also named on the PRO depot material acceptance list, PROs must implement recycling programs that achieve convenience standards, collection targets and performance standards for those materials. Those standards and targets will be defined in administrative rules.
- PROs are required to set membership fees so that producers of different materials are charged different fees, and those fees recover the PRO’s expenses specific to each material. Examples include the following:
 - Fees for producers of covered products accepted by local governments should be proportional to the PRO’s expenses associated with expanding local government collection services.
 - Fees for producers of materials on the Uniform Statewide Collection List should be proportional to the PRO’s costs associated with processing commingled recyclables (payment of the processor commodity risk fee).
 - Fees for producers of materials *not* accepted for recycling should be set to recover the PRO’s expenses associated with reducing and removing contamination. In addition, the law requires that average fees across all materials not accepted for recycling in Oregon must be higher than average fees for materials that are accepted for recycling.
- PROs also have an obligation to ensure that certain covered products collected for recycling are delivered to responsible end markets, and are managed consistent with state policy and in an environmentally protective way. This obligation applies to any covered product collected for recycling

that meets any of the following four criteria:

1. Is on the material acceptance list for PROs (e.g., PRO depot recycling).
2. Is on the material acceptance list for local governments and is designated as allowable to be collected in a commingled manner (the Uniform Statewide Collection List).
3. Is used by the PRO to count towards the achievement of statewide plastic recycling goals (starting in 2028).
4. Is otherwise designated by DEQ as a "Specifically Identified Material".

Additional Information

DEQ will provide additional information on the relationship between "covered products" and "material acceptance lists" with the Recycling Council on Oct. 20, 2022 and post additional information to the current rulemaking [webpage](#) in November.

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