



FAQs

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Recycling Modernization Act Frequently Asked Questions

Oregon DEQ developed these in-depth FAQs to help people understand the Recycling Modernization Act and how different businesses, organizations and communities may be affected when the law is implemented.

The information provided here does not describe every possible scenario, nor is it offered as a substitute for the statutory language or intended as legal advice. In the case of conflict, the statute shall prevail.

Administrative rulemaking in 2023 and 2024 may provide additional detail. More detailed information will be available in the future on DEQ's website at RecyclingAct.Oregon.gov.

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Producer Responsibility Organizations

1. How will the producer responsibility organizations (PROs) be approved?

Individual producers covered by the law are required to join a PRO, which will submit a program plan to DEQ for review and approval. The first PRO program plans are required to be submitted by March 31, 2024. PROs may form any time prior to that date. DEQ will approve program plans that are submitted to the department by the deadline and meet the requirements of the law. PROs that hold a DEQ-approved program plan will begin implementation by July 1, 2025.

Producer Requirements and Definitions

2. When are producers obligated to comply with these new regulations?

Producers are obligated to join a Producer Responsibility Organization (PRO) by July 1, 2025. PROs are

required to submit the first program plan to DEQ for review by March 31, 2024, and must begin implementing an approved plan by July 1, 2025.

3. What is a legal “person”?

“Person” means the United States, the state or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity.

4. How do I know whether my company is a “producer”?

Please consult the [producer obligations summary](#) for information about how to determine who the “producer” is for different types of covered products.

5. What if my company is outside the United States and we are directly selling to end-users in Oregon via remote sale, such as via an online web store?

The foreign company would be the “producer.” It does not matter if the end-user is a household or business, so long as that business is not selling, re-selling or distributing the item further. The obligated “producer” for both the outer packaging used to ship the item(s), and the product packaging that directly contains the purchased item would be the person that first distributes the packaged item in or into Oregon.

6. I work for a company that manufactures a product in packaging and ships them to independent dealers in Oregon. Are the dealers who purchase and request we ship product to them considered the producers (since they are independently owned) or is the corporate brand the producer?

If the company that manufactures the product is a domestic (U.S.) legal “person,” then that company would be the obligated “producer,” not the independent dealers. (See definition of “person” above.)

7. I work for company outside of the United States that manufactures a product and its packaging. We have a sales company based and registered in the United States. The sales company imports into the U.S. products in packaging and sells them to distributors, who in turn sell the product to retailers or end users. Who is the “producer”?

The covered product in this example is the packaging. Regardless of whether the products are ultimately sold into Oregon via physical or remote sale, the “producer” of the product packaging is the importer (the U.S. sales company). Any outer packaging used to ship the packaged item to the buyer in Oregon via remote sale would be the responsibility of the person that packages and ships the item – in this instance, that might be the distributor.

8. What are the penalties for non-compliance with the Recycling Modernization Act?

The penalties for non-compliance are listed in Section 47 of [Senate Bill 582](#), and are added to [ORS 459.995](#). The maximum penalty allowed is \$25,000 per day. This is the same cap that applies in statute to most other violations of solid waste and recycling statute. The actual penalty amount would be determined based on factors in administrative rule including violator size, history, impact, intent and efforts to correct. Economic benefit of non-compliance is also a factor.

9. In the definition of “small producer” in Section 2(32)(c), does gross revenue mean in the state, nationwide or global?

Gross revenue refers to global revenue for that organization.

10. Are producers with an annual gross revenue of less than \$5 million or that place less than 1 metric ton of packaged products onto the market in Oregon a year obligated to join a PRO?

No, because producers with an annual, worldwide gross revenue of \$5 million or less or that place less than 1 metric ton of covered product into Oregon are considered “small producers” (Section 2(32)), and small producers are exempt from the program.

11. Does “market share” mean share within a specific industry or producer group? Section 2(13) refers to “a producer’s percentage of all covered products” while Section 4(12) refers to the “total combined market share of all producers of covered products.”

“Market share” describes an individual producer’s share (on a percentage basis) of covered products sold or distributed into Oregon. The Recycling Modernization Act uses “market share” in two different ways: to represent the producer’s share of all covered products *within* that producer’s producer responsibility organization (PRO), and to represent the producer’s share of all covered products *across* all PROs. Methods for calculating market share will be established by the Environmental Quality Commission through administrative rule (Section 2(13)). The rulemaking will account for the possibility of more than one PRO (Section 4(9)(b)(A)).

12. Where do obligated producers need to register, submit data and pay fees?

Obligated producers will need to register with, submit data to, and pay fees to a producer responsibility organization (PRO) that administers a producer responsibility program approved by the state of Oregon. PROs have until March 31, 2024 to submit program plans for approval. DEQ will approve those plans before July 1, 2025. Producers have until July 1, 2025 to join a PRO.

In addition, if a producer (e.g., an online retailer) is engaged in remote sales of packaged items, and the packaging for such items has a different obligated producer (e.g. a personal care products company), then the producer conducting remote sales into Oregon is obligated to report those sales to the other producer(s), so that they are aware of their compliance obligations.

13. What data will producers need to submit, such as sales units or weight of packaging?

The producer responsibility organizations (PROs) will establish specific reporting requirements for their members. Some reporting requirements will also be defined by DEQ administrative rule in 2023.

14. When will individual producers know the criteria that PROs will use to establish the annual membership fee?

The different categories of material types, materials and formats that producer responsibility organizations (PROs) propose to use to assess membership fees will be available on March 31, 2024. This is the date when PROs are required to submit the first draft of their producer responsibility program plans to DEQ. These plans will include their proposed schedule of membership fees.

15. If there is more than one PRO, will producers need to join all of them?

No. Individual producers are required to register and pay fees for all covered products once. The law allows for multiple PROs in order to encourage competition between them.

16. If there is more than one PRO, how will coordination between them work?

If DEQ approves more than one PRO program plan, then PROs will be required to submit a coordination plan and work through a coordinating body (Section 4(9)). Requirements for the coordination plan will be established by administrative rule in 2023.

17. Will producers be incentivized to design products that are easier to recycle or more sustainable?

PROs are required to establish a graduated fee structure that are charged to members, using several mandatory criteria, including but not limited to recyclability, use of post-consumer recycled content and product-to-package ratio. All other things being equal, producers that incorporate these design features in their covered products will pay lower membership fees.

Recycling Collection and Material Lists**18. For the statewide collection list, will the same materials be collected in on-route commingled recycling programs and at recycling depots?**

Not necessarily. The uniform statewide collection list will establish which materials will be collected in on-route commingled recycling programs (curbside) and which materials will be collected at recycling depots. Therefore, drop-off locations may accept additional materials that may not be appropriate for curbside collection.

19. What will be collected at recycling depots?

What is collected depends on the type of recycling depot. There will likely be two different types of depots where community members can drop off recyclables:

1. *Multi-material depots, co-located with solid waste disposal sites.* These depots will be required to accept *at least* the materials on the statewide collection list designated for curbside collection. In addition, they may also accept:
 - Materials on the statewide collection list designated specifically for depot collection
 - Other materials that a specific community may choose to collect at their own cost
 - Additional materials that PROs are required to provide collection services for through drop-off services, collection events or other collection methods
2. *Other depots that accept a smaller number of materials.* The Environmental Quality Commission (EQC) will identify specific materials for which PROs will be required to provide collection. The PROs may meet some collection requirements by working with the operators of depots at disposal sites (described above) to add these materials. They may also operate additional depots or work with other businesses to provide separate drop-off sites. Details will be clarified through administrative rulemaking scheduled to conclude in 2023 and PRO program plans, due March 31, 2024.

20. Does the presence of toxic chemicals in covered products, such as food serviceware, affect whether and how they are recycled?

Not all “covered products,” such as food serviceware will be designated for recycling in Oregon. Many covered products will not be included on the list of recyclable materials for various reasons, such as environmental health and safety considerations, environmental factors from a life cycle perspective and others listed in Section 22(3) of the Recycling Modernization Act. The uniform statewide collection list and producer-collected materials will be determined through an administrative [rulemaking process](#). Please see the estimated [implementation timeline](#) for more information.

Costs

21. Will garbage and recycling collection bills go up as a result of these changes?

Ratepayers who pay a garbage and recycling bill today will not pay more as a result of requirements in the new law. Producers of packaging, printed paper and food serviceware will pay for the costs of improving existing recycling programs. Also, some costs that are currently paid for by ratepayers (such as transportation) will be compensated by the PROs, and this could result in lower bills.

22. How will local governments pay for costs to meet the new requirements?

Local governments will receive funding from PROs to implement the new requirements. Additional funding will also be available to support optional programs that cities and counties may choose to offer. Where communities choose to voluntarily expand recycling collection services, PROs will pay for start-up and ratepayers will pay the ongoing costs of collection. Costs associated with meeting new space requirements at multifamily properties will be borne by the property developer or builder.

PRO funding will support new local government requirements including:

- Implementing contamination reduction programs
- Using new education resources to promote the statewide list
- Additional costs for using recycled plastic in recycling and waste containers
- Start-up costs for ensuring adequate collection service volume for multifamily residents
- Transporting recyclables more than 50 miles to a recycling processing facility or end market
- Start-up costs for expanding recycling collection opportunities (as identified in a statewide needs assessment)

23. How much will the PROs pay for the State’s administrative costs?

DEQ estimates that PROs will collectively pay less than \$2 million annually for the State’s costs to administer, implement and enforce the new law. This amount makes up about 2% of the total estimated PRO costs of compliance.

24. Will consumers be affected by higher prices on the goods they purchase as a result of this new program?

[Research](#) on similar systems throughout Europe and Canada has not found that producer responsibility programs lead to an increase in consumer prices for their products. An overwhelming majority of the

producers that will operate in Oregon's extended producer responsibility (EPR) system are global brands that will likely spread the cost across their very large customer bases.

Commingled Recycling Processing Facilities

25. How will the commingled recycling processing facilities be regulated?

By July 2025, commingled recycling processing facilities will be required to obtain a permit from DEQ, or a similar certification approved by DEQ, to receive recyclable materials from Oregon communities. In order to receive the permit or certification, processing facilities will need to meet new performance standards, including for sorting quality, managing contamination, and reporting on final destination of materials. The specific standards will be established by administrative rule in 2024.

26. When will the new regulations for inbound and outbound quality, as well as destination reporting, be established?

Requirements for outbound quality and destination reporting will be established in administrative rule, scheduled for consideration by the Environmental Quality Commission in 2024. See the [implementation timeline](#) for more details.

27. Is there funding available to improve sorting technology and infrastructure?

PROs will propose in their program plans how they plan to meet requirements for responsible recycling of covered products. The plans must specifically detail investments and other arrangements made with recycling processors (Section 6(2)(a)(H)(v)) such as investing in sorting technology and infrastructure upgrades. The Recycling Modernization Act does not prescribe specific types of investments, but rather requires PROs to pay several fees to commingled recycling processors that will compensate for many of the costs of permit compliance. PROs may also make additional arrangements with commingled recycling processing facilities as necessary to meet the requirements in the law, including effective recycling of covered products that are designated for recycling.

28. What is the contamination management fee?

PROs will pay commingled recycling processing facilities a contamination management fee (Section 24) to cover the costs of removing and disposing of covered products that are not accepted in recycling collection programs. These items, known as contaminants, make it more expensive to sort accepted recyclables. To establish the contamination management fee, an independent consultant will conduct a study to estimate the costs of removing and disposing of covered products that are contaminants. The fee will first be determined through a rulemaking process that is estimated to conclude in late 2024. It will go into effect July 1, 2025 and is subject to future revision.

29. What is the processor commodity risk fee?

PROs will pay commingled recycling processing facilities a commodity risk fee (Section 25) to stabilize the cost of recycling and to protect Oregon ratepayers from paying more as a result of requirements in the Recycling Modernization Act. Today, through garbage and recycling collection bills, ratepayers pay for the costs of sorting collected recyclables into separate material categories before the material is sold

to end markets. In the future, most of these processing costs will be paid by the PROs through the processor commodity risk fee (minus the contamination management fee, described above).

The fee will be set to absorb the volatility of recycling markets that currently make processor costs fluctuate, and will change frequently based on changes in a published commodity prices paid for recyclable materials. A fee formula will first be determined through a rulemaking that is estimated to conclude in late 2024. It will go into effect July 1, 2025, and is subject to future revision.

Together, the contamination management fee and processor commodity risk fee will offset costs that the processors incur as a result of meeting new performance standards in the law, such as improving sorting quality and ensuring materials reach responsible end markets.

Plastics

30. Is all packaging covered, or only plastic?

All packaging and food serveware, unless exempted, is a covered product, regardless of material.

31. How will the recycling rate of plastic packaging be determined?

The recycling rate of plastic will be calculated by DEQ, as prescribed in Section 27(3) and (5) of the Recycling Modernization Act. Recycling data may be obtained through DEQ's periodic material recovery survey and supplemental information required by DEQ. Disposal and generation data may be obtained through annual waste disposal reporting, periodic waste composition studies, and supplemental information required by DEQ.

Rulemaking

32. What will be covered in the first administrative rulemaking?

The first rulemaking process is estimated to begin in late 2022, with draft rules brought to the Environmental Quality Commission (EQC) for consideration in late 2023. The rules will establish more details and requirements related to:

- Producer responsibility organization (PRO) plan requirements (including coordination plans)
- Standards for PRO compensation of local governments (Section 13)
- Material lists for recycling – including collections provided by local governments and collections provided by PROs (Section 22)

33. What will be covered in the second administrative rulemaking?

The second rulemaking process is estimated to begin in 2023, with draft rules brought to the Environmental Quality Commission (EQC) for consideration in mid-2024. The rules will establish more details and requirements related to:

- Commingled recycling processing facility permit and certification requirements, including living wages and benefits for facility workers (Sections 37 & 38)
- Contamination management fee and processor commodity risk fee and (Sections 24 & 25)
- Waste Prevention and Reuse Fee to be paid by PROs (Section 32)

- Life cycle assessment standards – Procedures and requirements to be used by producers when evaluating the life cycle impacts of covered products (Section 33)

Education and Labeling

34. How does the new law improve education for community members?

Starting in 2025, public education about recycling will be expanded and improved in several meaningful ways, including:

- Cities and counties will offer more public education programs funded by producers.
- Local governments will choose and tailor tested strategies to reduce contamination, or trash, in the recycling, including public education.
- Public education will be easier with one uniform statewide recycling list describing what can and can't be recycled.
- PROs will create, distribute and share educational materials to promote the statewide collection list.
- Educational materials will be available in multiple languages, to meet the needs of diverse communities.

35. Will there be any mandatory labeling requirements under the new law?

To address the issue of misleading or confusing product labeling, the Recycling Modernization Act created a Truth in Labeling Task Force to study the issue and make recommendations for possible future legislation (Section 36). The report is due to the Oregon Legislature by June 1, 2022.

Life Cycle Assessment

36. Under Section 33, “large producers” will be required to perform a Life Cycle Assessment (LCA) every two years. How long will this requirement be in place?

Section 33(2) requires the 25 largest producers to perform life cycle assessment for at least one percent of covered products sold or distributed in or into the state every two years. This is an ongoing requirement and it has no sunset date.

37. Are the LCAs industrywide – that is, one study on a particular packaging material across an industry – or for individual covered products?

The requirement applies to individual “covered products,” as defined in the law. Individual producers could choose to work together to share resources and perform a common LCA on the base materials used in their covered products if they share common supply chains.

38. Will LCAs conducted by large producers be made publicly available? Will they be peer reviewed?

Life cycle assessments conducted by large producers will be made available to the public and must be posted to the PRO's website. Other requirements, such as standards for conducting these assessments,

will be established by administrative rule in 2024.

Compostable Packaging

39. Will compostable packaging also be covered by this law, and producers of such packaging required to pay fees?

Yes. All packaging is a covered product, unless exempted in the law, regardless of whether it is "recyclable," "compostable" or not.

Recycled Content

40. Does the new law include any recycled content requirements?

- As of January 1, 2026, local governments will be required to ensure that designated collection service providers purchase roll carts, bins and other collection containers made from at least 10% post-consumer recycled content.
- PROs must also consider the use of recycled content in covered products when determining the annual membership fees charged to their members (Section 11(4)(a)). Among other factors, PROs must incorporate into the graduated fee structure a producer's use of recycled content in its covered products.

Recycling Markets

41. How does the Recycling Modernization Act strengthen recycling markets?

Producer responsibility organizations (PROs) will be required to ensure that covered products collected in Oregon are delivered to responsible end markets. Also, permit or certification standards will require commingled processing facilities to market collected materials to responsible end markets.

- If a responsible end market does not exist, or ceases to exist, then the PROs must take actions to develop alternatives for materials on the statewide collection list.
- If a responsible market exists but requires additional actions to access it (such as paying higher transportation costs or conducting additional processing of materials), then the PRO must also take steps to ensure that materials collected in Oregon can and will be delivered to that market.
- PROs may provide compensation to commingled recycling processors if they incur higher costs to access a market. This is called the processor commodity risk fee.

The Recycling Modernization Act also supports the development of recycling markets by requiring:

- PROs to establish a graduated fee structure that are charged to members, using several mandatory criteria, including use of post-consumer recycled content. All other things being equal, producers that use post-consumer content in their covered products will pay lower membership fees.
- Local governments to ensure that roll carts, bins, and containers purchased by their service providers are manufactured from at least 10 percent post-consumer recycled material.

Other Questions

42. How will independent recycling companies and services be affected by the new law?

Independent recycling companies and services may be addressed through PRO program plans and additional collection opportunities that PROs will provide according to Section 22(1)(b). Local governments that oversee recycling collection services in their communities may also address such services through their own local processes and codes. The Recycling Modernization Act does not prohibit independent companies from operating or offering services, as long as they comply with state and local regulations.

More information

More information is available on DEQ's website at RecyclingAct.Oregon.gov.

Alternate formats

DEQ can provide documents in an alternate format or in a language other than English upon request. Call DEQ at 800-452-4011 or email deqinfo@deq.state.or.us.