

Oregon Recycling System Advisory Council

Meeting #10

Dec. 7, 2023

8:30 to 11 a.m.

Zoom meeting

Language Access

Look for the interpretation (globe) icon at the bottom of your screen

Select the language you want to hear

Then, mute original audio

1

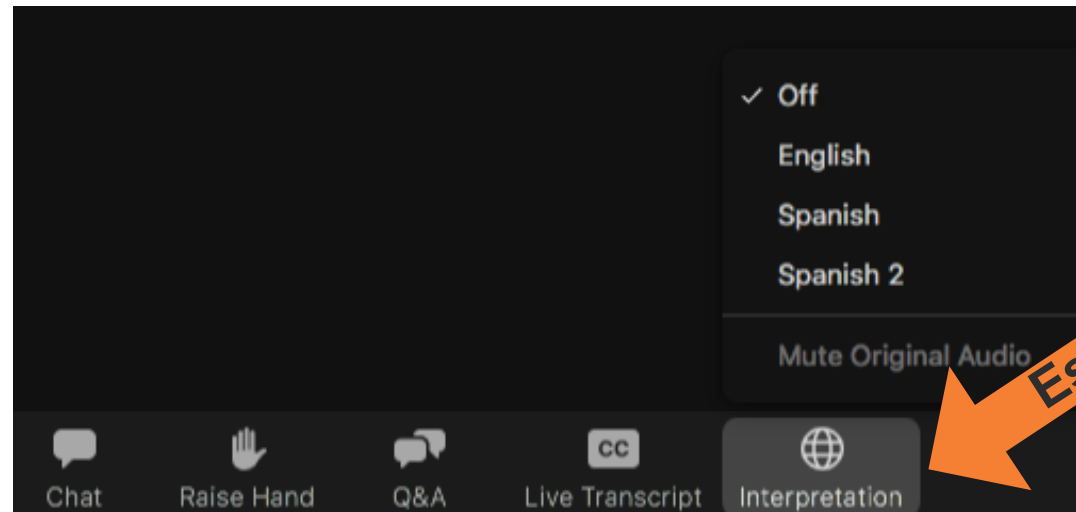
Busque el ícono de interpretación (globe) en la parte inferior de su pantalla

2

Seleccione idioma que desea escuchar

3

Después, silencia el audio original



Zoom logistics

Today's session is being recorded

Non-Council members are in listen-only mode

Sign-ups for public input will occur at the start of that item (9:20 a.m.)

Technical difficulties?

Contact Stephanie Caldera via email Stephanie.Caldera@deq.Oregon.gov or text 971-279-9517

Agenda // Orden del día

8:30 a.m.	Welcome and meeting opening	Bienvenida y apertura de la reunión
8:40 a.m.	RMA implementation updates	Actualizaciones de la aplicación de la RMA
8:50 a.m.	Consult: Specifically Identified Materials	Consultar: Materiales específicamente identificados
9:20 a.m.	Public input session	Sesión de aportaciones públicas
9:35 a.m.	Break	Receso
9:45 a.m.	Consult: Equity study overview	Consultar: Visión general del estudio sobre la equidad
10 a.m.	Elections: Chair and Vice-chair	Elecciones: Presidente y vicepresidente
10:15 a.m.	Inform: Covered Product Exemption request follow-up	Inform: Seguimiento de las solicitudes de Exención de Productos Cubiertos
10:25 a.m.	Consult: PRO Program Plan review process	Consultar: Proceso de revisión del Plan del Programa PRO
10:50 a.m.	Meeting close, next steps and reminders	Cierre de la reunión, próximos pasos y recordatorios
11 a.m.	Adjourn	Se levanta la sesión

Update on RMA Milestones

Completed

- First rulemaking
- First collection needs assessment
- Recycling Council convened
- Truth in Labeling report completed
- Law went into effect

2024

- Studies for processor funding
- First PRO program plans
- Contamination reduction research
- First equity study
- First multifamily needs assessment
- Waste composition study
- Second rulemaking

2025

- Producers join a PRO and pay fees
- PROs implement approved plans
- PRO funding begins
- Processors obtain permits

Review: Specifically Identified Materials



PRO must describe in its program plan how it will “support collection, processing or responsible recycling”

SIMs are subject to responsible disposition requirements
ORS 459A.896(2)



Additional reminders

- SIMs and recycling acceptance lists are related *but different* discussions
- First program plans are due March 31, 2024
- No SIM designations are required
- DEQ can designate SIMs at any time

Written Comments on SIMs (Summary)

- Three Council members provided written comments
- Themes:
 - Requested more time and information
 - Support for phased approach (“start small”)
 - Support for criteria, also consider “look-alike” materials (public confusion)
 - Don’t focus on Uniform Statewide Collection List materials
 - Some conflation with acceptance list discussion

Proposal from Vinod on behalf of multiple commingled recycling processing facilities

- Designate as SIMs two materials on the Uniform Statewide Collection List:
 - Polycoated and aseptic cartons
 - Nursery packaging (both accepted and not)
- Create transparent process for monitoring SIMs, delisting SIMs, and if necessary, delisting USCL materials



Additional “Strawperson” Proposal: DEQ

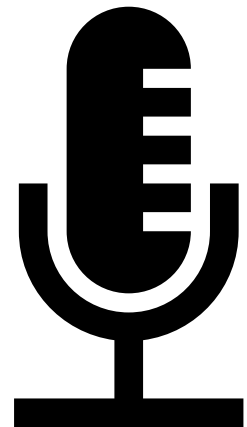
Limited Initial Designation, as follows:

1. Materials on PRO Recycling Acceptance List:
 - a. Aerosol cans
 - b. Materials being removed from on-route collection
2. Candidates for future statewide collection:
 - a. PET thermoforms
 - b. Single-use cups (all materials)
 - c. Polycoated paperboard packaging



Public input

- To sign up: Use the “raise hand” function (usually in your Reactions panel)
 - If you cannot use the “raise hand” function, please send a chat to “Host” to sign up
- When called on to start, please state your name and organization, if applicable
- Please limit input to three minutes or less
- Written material can be emailed to Stephanie Caldera:
Stephanie.Caldera@deq.Oregon.gov
- This is not formal public comment on any proposed rulemaking



Break - Please return at 9:45 a.m.



Equity study

Statutory requirements

- Worker conditions, business opportunities, multifamily service, education, gender and racial parity

Timeline

- Interim report September 2024, final report July 2025
- Repeat every four years

Research, State
partner engagement

Scoping: Community
and public
engagement

Interim report: Policy and
legislation focus

Community and public
engagement

Final report and
recommendations

Equity study

Council engagement

- How can DEQ engage the full Council throughout the study timeline?
- How do individual Council members want to be engaged throughout the study timeline?

Other feedback?

Email Stephanie.Caldera@deq.oregon.gov

Council leadership: Chair and vice-chair

Roles

- **Chair:** Call and preside over Council meetings, develop meeting agendas, interact with agency staff, provide support to the Council, appoint subcommittee members, sign documents on behalf of the Council, and serve as spokesperson for the Council.
- **Vice-chair:** Performing the Chair's obligations when they are unavailable; assist the Chair with all responsibilities

Terms

One year, elected by a majority of the voting Council members

Inform: Council feedback on exemptions



Oregon Recycling Council: Covered Product Exemptions poll results

Background

In November 2023, by individually completing a four-question poll, Recycling Council members provided feedback to DEQ on five recommended exemptions from the definition of "covered product" to be promulgated in rule.

The exemptions as initially recommended are as follows:

- 1) packaging that is used for the long-term (i.e., five or more years) storage of a durable good (e.g., keepsake ornament boxes, durable storage totes);
- 2) packaging that contains or protects durable medical equipment (as defined in OAR 410-122-0010(4)) used in healthcare facilities;
- 3) packaging used in healthcare facilities for the management of infectious waste as defined in ORS 459.386;
- 4) packaging used to contain pesticides classified as *restricted-use* under the provisions of section 3 (d) of FIFRA and 40 CFR part 152, subpart I and sold to licensed commercial operators; and
- 5) refillable pressurized cylinders that contain pure oxygen or hydrogen.

The poll queried Recycling Council members' opinions on the overall directionality of the proposed exemptions (i.e., the proposal to limit exemptions to the five recommended classes of products and deny other exemption requests received from interested parties), and their opinions on requests received by the department to expand the scopes of recommended exemptions #2, #3, and #5.

Poll Results

Twelve out of fifteen voting Council members completed the poll, and the results are summarized in Table 1.

Overall, voting indicated that the Council:

- Approved of the recommended exemptions broadly-speaking,
- Tended to disapprove of a scope expansion for the exemption for medical device packaging,
- Tended to approve of a scope expansion for the exemption for pressured cylinders, and
- Were split on a scope expansion for the exemption of agricultural chemical packaging.

A three-page document summarizing Council feedback on DEQ's covered product exemption recommendations was included in the meeting packet and collates results from the poll distributed to Council members after the October meeting.

Review: Covered product exemption timeline



Review: Requests received



Covered products exemption requests

Aug 22, 2023, meeting of the Oregon Recycling Council

Background

The Plastic Pollution and Recycling Modernization Act includes a definition for "covered products," or those products for which producers are obligated to pay fees to a Producer Responsibility Organization. The relevant definition appears in ORS 459A.863(6), with specific exemptions from the definition noted in ORS 459A.863(6)(b).

Per ORS 459A.863(6)(b)(R), the Oregon Environmental Quality Commission may, in consultation with the Recycling Council, exempt additional products from the definition of covered product in rule. To implement this piece of statute, DEQ opened a window in May and June 2023 for requests to exempt products from the definition of "covered product." The two-part form instructed requesters to provide a rationale for their request and estimate the impacts of the exemption. A product's completely bypassing the commingled system, entering the system neither as an item accepted for recycling nor as a contaminant, is an example of a strong rationale in DEQ's opinion. As for impacts of exemption, DEQ considered the impacts of "free riders" (system costs being divided among a smaller group of producers, resulting in larger fees for producers and products still obligated) and the environmental impacts of additional classes of products not being subject to the Act.

Requests received

DEQ received 27 product exemption requests and evaluated each individually. DEQ recommends granting the following five exemptions in rule:

- 1) packaging that is used for the long-term (i.e., five or more years) storage of a durable good (e.g. keepsake ornament boxes, durable storage totes);
- 2) packaging that contains or protects durable medical equipment (as defined in OR 410-122-0010(4)) used in healthcare facilities;
- 3) packaging used in healthcare facilities for the management of infectious waste as defined in ORS 459.386;
- 4) packaging used to contain pesticides classified as *restricted-use* under the provisions of section 3 (d) of FIFRA and 40 CFR part 152, subpart I and sold to licensed commercial operators; and
- 5) refillable pressurized cylinders that contain pure oxygen or hydrogen.

27 product-specific requests received in the following categories:

- Durable containers for durable goods
- Printing and writing paper
- Medical materials
- Hazardous materials
- Items sold business-to-business or with successful producer take-back programs
- Pressurized cylinders
- Other

Summary: Product exemptions

Five recommended exemptions



Durable
packaging
for durable
goods



Durable
medical
equipment
used in
healthcare
settings



Packaging
for
management
of infectious
waste



Restricted-
use
pesticides
sold to
commercial
applicators



Refillable
pressurized
O2 and H2
cylinders

Update: proposals from interested parties



Exemption #2: Packaging of all medical devices used in healthcare settings or predominantly prescribed.



Exemption #4: Packaging of all agricultural chemicals for which producers indicate intended commercial use to the ODA.



Exemption #5: All economically-valuable refillable and reusable pressurized cylinders with functioning exchange programs.

Poll vote results*

Voting Results	Q1: Support general directionality?	Q2: Support scope expansion for exemption #2, to encompass packaging of all medical devices used in healthcare settings or predominantly prescribed	Q3: Support scope expansion for exemption #4 to encompass packaging of all agricultural chemicals used in professional settings?	Q4: Support scope expansion for exemption #5 to encompass all refillable or reusable cylinders with economic value and functioning exchange systems?
Yes	11	1	2	5
No	1	7	6	3
Some (expansion)	n/a	3	3	3
Abstain	0	1	1	1

*12 of 15 voting members of the Council submitted poll responses

Review of more detailed feedback

Exemption Recommendations: Overall Directionality

These are the five exemptions originally recommended by DEQ, based on the agency's review of the 27 product-specific requests received from interested parties (see the Council [meeting packet for the August 22 meeting](#) to review all requests received):

- 1) packaging that is used for the long-term (i.e., five or more years) storage of a durable good (e.g. keepsake ornament boxes, durable storage totes);
- 2) packaging that contains or protects durable medical equipment (as defined in OAR 410-122-0010(4)) used in healthcare facilities;
- 3) packaging used in healthcare facilities for the management of infectious waste as defined in ORS 459.386;
- 4) packaging used to contain pesticides classified as *restricted-use* under the provisions of section 3 (d) of FIFRA and 40 CFR part 152, subpart I and sold to licensed commercial operators; and
- 5) refillable pressurized cylinders that contain pure oxygen or hydrogen.

Poll Question #1: Do you support the general directionality of DEQ's recommended exemptions? (i.e., the proposal to grant the above-listed five exemptions only and deny the other requests)?

- Yes
 No

Comments:

Requested Scope Expansion for Exemption #2

DEQ has received a request to expand the scope of recommended exemption #2 (packaging of durable medical equipment used in healthcare settings) to encompass packaging of all medical devices either predominantly used in healthcare settings or predominantly prescribed. The medical device producer on whose behalf this request was made has concerns that the original scope would only encompass reusable devices and not single-use devices.

In responding to the relevant poll question below, Council members could consider:

- How much additional product would be exempt through the expanded scope? – DEQ has not received specific data. The FDA's definition of "medical device" at [21 U.S.C. § 321\(h\)\(1\)](#) is quite broad, encompassing items such as single-use bandages and toothbrushes.
- How likely is it that the exempt product would stay out of the commingled system? – DEQ has not received specific information. There are no large-scale producer take-back programs for packaging operating in the medical industry besides some efforts focused on sharps.

- Feedback on each of the five recommended exemptions, entered into comment fields of the poll
- Feedback on the process overall

Introduction: PRO Program Plan review

Meeting handout covers:

- How to use the Internal Management Directive on PRO Program Plans
- Key sections of program plans
- A proposal for organizing the Council review
- What if PROs declare content confidential?
- How to handle conflict of interest in Council review



Oregon Recycling Council: PRO Program Plans - Purpose, contents and review

Executive Summary

This document is intended to introduce members of the Recycling Council to Recycling Modernization Act PRO program plans in advance of the Council undertaking its statutory role in the plan review process per ORS 459A.902(1)(c). It summarizes the purpose and contents of PRO program plans, and then describes for the Council's consideration a proposal for how the review process could be structured. Throughout, the document draws upon material located in DEQ's [draft internal management directive \(IMD\) on PRO program plans](#), which guides DEQ staff in the review of program plans. Council members interested to access more detailed information are encouraged to explore the IMD.

With respect to the proposal for structuring plan review, DEQ would like to particularly highlight the following aspects to the Council:

- Program plan review is very **important**;
- DEQ values the feedback of the **Council**;
- The volume of content in a program plan is considerable and may create logistical challenges for individual Council members as well as the Council as a full body; and
- DEQ is proposing an approach whereby the Council would prioritize topics of interest and focus its review there, while still allowing individual Council members who want to do more to do so.

Purpose

Oregon's Recycling Modernization Act requires producers of covered packaging, printing and writing paper and food serviceware products sold within Oregon to join a Producer Responsibility Organization (PRO) and pay membership fees. PROs then use the membership fees to meet their obligations under the Act (ORS 459A.860 through ORS 459A.975), which is accomplished through the fulfillment of a DEQ-approved PRO program plan. Program plans serve as a principal operating blueprint for the system modernization that the Act aims to bring about, and are the mechanism for DEQ oversight, administration, and enforcement with respect to PROs.

Plan Contents

Required contents for inclusion in a program plan are denoted in statute and rule, with many of these requirements listed at ORS 459A.875, a dedicated section of statute. The internal management directive includes a suggested format (table of contents) for a program plan and provides checklists for contents of each section. These lists mix required elements (denoted by accompanying statutory and rule citations) and guidance elements (without citations) (Figure 1). Because the IMD contains

IMD on PRO Program Plans

Contains checklists of program plan content

<ul style="list-style-type: none">• methods for achievement of the above collection targets and those established in PR 340-090-0660(2)(a) and (b);• methods and a schedule, including interim milestones, for achieving convenience standards in PR 340-090-0640 by supporting and expanding existing collection points and by creating new collection points, including:<ul style="list-style-type: none">○ a description of how the prospective PRO will uphold the requirement (in ORS 459A.896(1)(a)) to contract, where possible, with existing recycling depots or drop-off centers, including identification of key collaborators that the prospective PRO plans to contract with;○ plans for providing enhanced convenience to underserved populations as required by PR 340-090-0640(2)(h);○ a description of how the prospective PRO will engage with local community-based organizations and women and minority-owned businesses to develop collection points; and	<p>Required by <u>rule</u></p> <p>Required by <u>statute</u></p> <p>Guidance element</p>
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Key Plan Sections

Section 3: Plan format

1. Table of contents
2. Prospective PRO description
3. Goals of the program
4. Operations plan
 - a. Collection and recycling of:
 - i. Materials on the Uniform Statewide Collection List
 - ii. Materials on the PRO Recycling Acceptance List
 - iii. Specifically Identified Materials
 - b. Fulfillment of other PRO obligations:
 - i. Ensuring responsible end markets
 - ii. Upholding Oregon's materials management hierarchy
 - iii. Achievement of statewide plastic recycling goals
 - c. Education and outreach
 - d. Interim coordination/Start-up plans
5. Financing
 - a. Membership fee structure / base fee rates
 - b. Graduated fee algorithm
 - c. Alternative membership fee structure (if applicable)
 - d. Adequacy of financing
 - e. Methods for transportation funding and reimbursements
 - f. Methods for local government funding and reimbursement
 - g. Other funding methods
6. Equity
7. Measuring program performance
8. PRO Management
9. Communications
10. Multi-PRO coordination
11. Dispute resolution mechanism
12. Closure plan
13. Certification and attestation

Appendices:

- A. Definitions
- B. List of member producers
- C. Implementation timelines
- D. Graphic/tabular representation of program performance metrics
- E. Itemized budgets by program year
- F. List of existing depots that the PRO will contract with

- Main narrative on how the PRO proposes to deliver on PRO obligations.
- If delivery on obligations requires activities prior to the start date, detail on start-up activities will be here.
- Details on how the PRO will fulfill obligations pertaining to financing, both incoming and outgoing.
- Summarizes equity measures across plan.

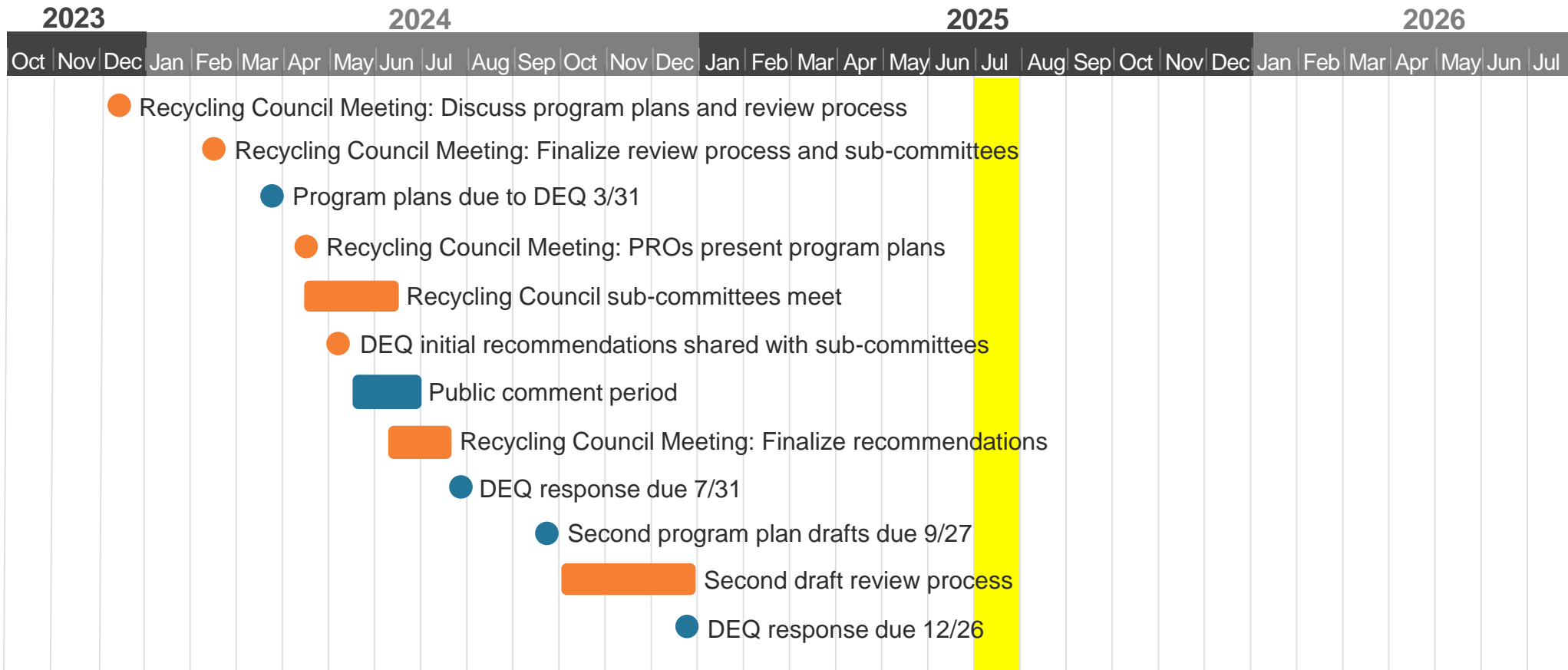
Operations Plan Sub-Sections

- a. Collection and recycling of:
 - i. Materials on the Uniform Statewide Collection List
 - ii. Materials on the PRO Recycling Acceptance List
 - iii. Specifically Identified Materials
- b. Fulfillment of other PRO obligations:
 - i. Ensuring responsible end markets
 - ii. Upholding Oregon's materials management hierarchy
 - iii. Achievement of statewide plastic recycling goals
- c. Education and outreach
- d. Interim coordination/Start-up plans

Financing Sub-Sections

- a. Membership fee structure / base fee rates
- b. Graduated fee algorithm
- c. Alternative membership fee structure (if applicable)
- d. Adequacy of financing
- e. Methods for transportation funding and reimbursements
- f. Methods for local government funding and reimbursement
- g. Other funding methods

Review process: a calendar



■ Recycling Council activities
 ● Statutory requirement

RMA Launch

Proposal for the Council's Review

- Create subcommittees to review priority sections of submitted program plans (also create a path for Council review of other sections)
- Indicate which subcommittees you want to join via poll
- Finalize subcommittee membership at February 2024 Council meeting
- DEQ recommendations for subcommittees:
 1. Funding and reimbursement for system expansion to collect and recycle the USCL
 2. Proposals to add new materials to the USCL
 3. Collection and recycling of the PRO Recycling Acceptance List
 4. Ensuring responsible end markets
 5. Education and outreach (including relevant content from the start-up section)
 6. Base and graduated fees
 7. Equity

Plan Review: Other Considerations

- Confidentiality. PROs have expressed concerns about making public:
 - fee schedules
 - fee methodologies
 - identity of prospective partners or parties that were consulted
- Conflict of Interest: Oregon Government Ethics Commission's [Guide for Public Officials](#)



Plan Review: Summary

- Program plan review is very important
- DEQ values the Council's feedback
- The volume of content in a program plan is considerable and may create logistical challenges
- DEQ is proposing a subcommittee approach intended to manage the workload and maximize feedback

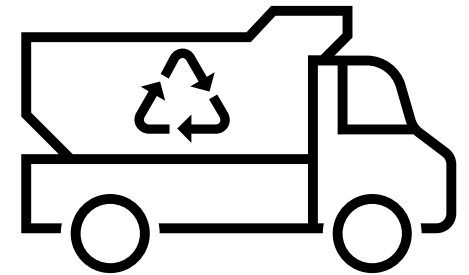


Next steps

Written feedback to [Stephanie Caldera](#) by **Friday, December 22**

Upcoming Recycling Council meetings and topics

- **February** (Date and time TBD)
 - Program Plan Guide review process:
Priorities and subcommittees



Thank you!

Notice of non-discrimination

DEQ does not discriminate on the basis of race, color, national origin, disability, age or sex in administration of its programs or activities. Visit DEQ's [Civil Rights and Environmental Justice page](#).

Translation or other formats

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