



State of Oregon Department of Environmental Quality

# Plastic Pollution and Recycling Modernization Act

## Section-by-section summary of Senate Bill 582B

Updated June 22, 2021

This summary has been prepared by Oregon DEQ for the convenience of readers. It is intended to provide a general, section-by-section orientation to [Senate Bill 582B](#).

### Legislative Findings; Definitions

**Section 1** includes Legislative findings and general policy, some of which is sourced from [Materials Management in Oregon: 2050 Vision and Framework for Action](#), which is the state's plan for sustainable materials management, adopted by the Environmental Quality Commission.

**Section 2** provides definitions for numerous terms used in subsequent sections, including “commingled recycling processing facility,” “covered products,” “food serviceware,” “packaging,” “producer responsibility organization” and “responsible end market.” Defines what is not a “covered product” in Section 2(6)(b) and are therefore exempt from the program.

**Section 3** relates to the definition of “producer” and assigns the responsibility for covered products for packaged products sold in physical retail vs. remote sale, printing and writing paper, and food serviceware.

### Producer Responsibility Organizations

**Section 4** obligates certain producers to join, pay membership fees, and provide information to a producer responsibility organization (PRO). It obligates PROs to ensure responsible end markets for certain covered products, and requires coordination if multiple PROs are formed. It requires PROs to maintain a registry of members, notify DEQ of non-compliance by members, and to have members with a combined market share of at least 10 percent. Sections 4(3) and 4(4) allow producers to work with supply chain participants to assign responsibility for covered products in a way that works best for them.

**Section 5** exempts small producers (defined in Section 2) and grants the EQC authority to exempt producers that do not exceed a minimum market share.

**Section 6** requires that PROs develop and implement a producer responsibility plan. It lists the requirements of such a plan, including supporting the collection and recycling of certain covered products and meeting the plastic recycling goal, maximizing the use of existing infrastructure, providing incentives to producer members for environmentally responsible design through a graduated fee structure, ensuring that materials are properly managed post-processing, and improving collection opportunities.

**Section 7** describes the processes and timelines by which DEQ may either accept or reject a proposed producer responsibility plan, as well as plan amendments. It establishes that plans are valid for a period of three years (initially; see Section 8 below) and provides for continuity in the event that plan renewal is

delayed. It requires DEQ to solicit feedback through public comment and from the new Oregon Recycling System Advisory Council (see Section 17) during the review of draft plans and plan amendments.

**Sections 8 and 9** amend Section 7 to extend the duration of program plans from three years to five, effective April 1, 2027. As a result, the first round of program plans would have a duration of three years; subsequent plans would have a duration of five years.

**Section 10** specifies program changes that require a PRO to submit and receive approval from DEQ for a plan amendment. It requires notification to DEQ and the ORSAC (see Section 17) of any other changes to a program plan.

**Section 11** establishes requirements for the membership fees that PROs charge to their members, including differentiating between types of covered products; charging fees that are proportional to PRO costs by product type, material or format (avoiding one material subsidizing another); and a graduated fee structure to incent design for environmental considerations. It also allows PROs to charge flat membership fees to smaller members.

**Section 12** establishes reporting requirements of PROs, including requirements for annual reports and special quarterly reports regarding material disposition. It requires DEQ to review reports, share reports with the public, and consult with the Oregon Recycling System Advisory Council. It also allows for content related to the market shares of individual producers to be kept confidential.

**Section 13** requires PROs to compensate local governments or their service providers for specified expenses, including transferring covered products greater than 50 miles from a recycling depot or reload facility to a processing facility; evaluating contamination in collected recyclables; delivering required contamination reduction programming (capped at \$3 per person per year); expanding recycling collection services where local governments commit to doing so; and including post-consumer content in plastic waste collection containers. It defines eligible costs and processes for determining compensation amounts. It allows local governments or their service providers to be compensated by formula or in advance, not only by reimbursement. It requires DEQ to conduct a periodic needs assessment to identify local interest in expanding on-route or depot collection service, and establishes reporting requirements for all parties. It specifies that costs for disposing of covered products by landfilling or incineration are not eligible costs for funding or reimbursement.

**Section 14** requires PROs to develop and make available to local governments culturally responsive educational resources to promote the uniform statewide recycling list (established in Section 22). It requires local governments to utilize these resources, and requires review of statewide resources by the Oregon Recycling System Advisory Council and approval by DEQ. It also requires PROs to coordinate and fund statewide promotional campaigns following revisions to the uniform statewide collection list.

**Section 15** establishes two additional requirements of PROs. The first is to provide for drop-off and mobile collections of certain materials (as identified in Section 22(1)(b)). The second is to ensure, to the extent practicable, that certain covered products collected for recovery in Oregon are delivered to responsible end markets, and managed in environmentally responsible ways and in accordance with the state's waste hierarchy.

**Section 16** was deleted by amendment. Subsequent sections were not renumbered.

## **Oregon Recycling System Advisory Council**

**Section 17** establishes the membership of the Oregon Recycling System Advisory Council (ORSAC), and requires the Speaker of the House to appoint one non-voting member of the House of Representatives, the President of Senate to appoint one non-voting member of the Senate, and the Governor to appoint 17 voting members. This section also establishes terms, requires meetings at least quarterly, and provides for both administrative support and compensation of members.

**Section 18** defines the duties of the ORSAC, which include making recommendations to both DEQ and the PROs on a variety of topics, and the submittal of a report to the Legislature every two years. It requires DEQ and PROs to respond to written recommendations from the ORSAC.

## **Responsibilities of Local Governments**

**Section 19** prohibits commingled recyclables collected under the Opportunity to Recycle Act from being delivered to commingled processing facilities unless such facilities meet performance standards (described in Sections 37 and 38) and specified equity considerations.

**Section 19a** amends Section 19 by adding several additional equity considerations, including the provision of a living wage and supportive benefits. The amendments contained in Section 19a do not become operative until January 1, 2027 (per Section 63(2)).

**Section 20** requires that local governments, as part of their Opportunity to Recycle Act obligations, ensure adequate space and access for collection at multifamily properties, demonstrate a plan for ensuring such access for new construction and significant remodels, and collection service standards for collection service providers. (PRO obligations to support expansion of multifamily recycling are contained in Sections 13(5) and 30(3).)

**Section 21** requires local governments to ensure that newly purchased roll-carts, bins and containers contain at least 10 percent verified post-consumer content (by January 1, 2026 – see Section 62).

## **Responsibilities of the Environmental Quality Commission and DEQ**

**Section 22** requires the creation of the following lists of materials for recycling:

- Section 22(1) requires the EQC to determine in rule materials suitable for collection and methods of collection, in consultation with PROs and the Oregon Recycling System Advisory Council. The EQC is also directed to distinguish between materials where local governments are responsible for collection (under Opportunity to Recycle Act requirements – see 22(1)(a)) versus where producers are responsible (special collections – see 22(1)(b)).
- Section 22(2) provides that materials deemed suitable for collection may be collected via on-route collection in some areas and via drop-off recycling in others.
- Section 22(3) defines criteria the EQC must consider in determining suitability of materials for collection, as well as collection mode (commingled vs. not), method (on-route vs. drop-off), and responsible party.
- Section 22(4) directs DEQ to establish the uniform collection list for the state, combining the EQC's list from Section 22(1) with additional covered products, if any, contained in an approved PRO program plan.
- Section 22(5) prohibits the commingled collection of any materials not on the uniform collection list.

- Section 22(6) allows material not on the uniform statewide list to be collected in a commingled program if such collection is part of a trial or research program.
- Section 22(7) establishes a process for setting collection targets, convenience standards and performance standards for materials that producers provide collection for (see 22(1)(b)).

**Section 23** allows DEQ, in consultation with PROs and the Oregon Recycling System Advisory Council, to designate “specifically identified materials.” Covered products made of materials with this designation require extra consideration in producer plans.

**Section 24** requires the Environmental Quality Commission to establish and periodically revise a “contamination management fee.” It requires PROs to pay this fee to commingled recycling processing facilities in order to compensate them for the cost of removing and disposing of covered products that enter such facilities as contamination. It requires that the fee be determined based on a periodic study of actual costs. It allows for commingled recycling processing facilities to keep business information confidential.

**Section 25** requires the Environmental Quality Commission to establish and periodically revise a “processor commodity risk fee,” which PROs will pay to commingled recycling processing facilities. This fee, which will float based on changes in published commodity values relative to an index, will be set to target \$0 (zero) per ton paid to collectors for commingled materials delivered to a commingled processing facility. The fee is designed to protect ratepayers and the larger collection system from instability associated with down-market commodity values, and to shift a portion of processing costs from ratepayers to producers. It allows for commingled recycling processing facilities to keep business information confidential.

**Section 26** requires DEQ to evaluate any federal law that establishes a national program for the collection and recycling of paper products or packaging, and report to the legislature if the federal law meets or exceeds the requirements of this bill.

**Section 26a** requires DEQ to conduct a statewide needs assessment to identify where litter prevention and cleanup is needed and report to the Legislature. The report is due no later than September 15, 2026. The legislative report may include recommendations for adding litter and marine debris obligations to the PRO’s responsibilities, and recommendations for funding such responsibilities.

**Section 27** establishes recycling goals for plastic packaging and food serviceware: 25 percent by 2028, 50 percent by 2040, and 70 percent by 2050. The goal for 2050 is not enforceable.

**Section 28** addresses contamination reduction. It requires the establishment of both state and local contamination reduction goals. It requires the DEQ to evaluate the relative cost-effectiveness of different contamination reduction practices, and to establish a list of approved program elements, including culturally responsive education, feedback, and financial or service consequences for significant and repeated sources of contamination. Local governments are required to implement programming drawn from that list of elements but only as compensated as described in Section 13(4), and DEQ will evaluate contamination reduction goals and program outcomes every four years with a report to the Legislature.

**Section 29** requires DEQ, in consultation with local governments and the Oregon Recycling System Advisory Council, to conduct a periodic study of equity considerations in Oregon’s recycling system. DEQ will provide public involvement opportunities for underserved communities during the study. It requires businesses to provide information necessary to conduct the study and protects against disclosure of confidential information. The study may include recommendations for adding new PRO

responsibilities for advancing equity in the recycling system, and recommendations for funding such responsibilities. The study shall be repeated at least once every four years.

**Section 30** requires DEQ, in consultation with the Oregon Recycling System Advisory Council, to conduct a periodic needs assessment of recycling challenges facing residents of multifamily housing. The study may include recommendations for adding new PRO responsibilities for improving multifamily recycling, and recommendations for funding such responsibilities. The study shall be repeated at least once every four years.

**Section 31** authorizes the Environmental Quality Commission to assess fees to PROs for the purpose of administrative cost recovery, including a one-time fee for program plan review and an annual fee for DEQ administration.

**Section 32** requires DEQ to establish a program to reduce the environmental impacts of covered products through means other than recycling, such as waste prevention and reuse. It authorizes DEQ to enter into agreements (including grant agreements) with other public bodies to implement such programs, funded by additional fees charged to PROs. The fees charged to PROs may not exceed 10 percent of a three-year average of the PRO's other annual expenses.

**Section 33** directs the EQC to establish rules for the evaluation and disclosure of life cycle impacts of covered products. These rules apply to voluntary incentives related to impact disclosure (see Section 11), as well as a new requirement of large producers to evaluate and disclose impacts.

**Sections 34 and 35** create a new Producer Responsibility Fund (see Section 31) and Waste Prevention and Reuse Fund (see Section 32).

**Section 36** creates a Truth in Labeling Task Force that is charged with studying misleading or confusing claims regarding recyclability and recommending legislation to the Legislature by June 1, 2022.

### **Commingled Recycling Processing Facilities**

**Section 37** requires operators of commingled recycling processing facilities to obtain a permit from DEQ, and establishes permit requirements including effective sortation, contaminant removal, use of responsible end markets, nuisance avoidance, and disclosure requirements. It provides for protection from disclosure of confidential information, and allows for limited and temporary transfers of materials to non-permitted facilities in the event of a failure of critical equipment.

**Section 38** directs DEQ to establish a certification program or approve a third-party operated program that satisfies the same requirements as Section 37. (This relates to requirements in Section 19 that directs commingled recyclables to facilities that meet minimum standards and is specifically designed to allow for parity between permitted in-state facilities and facilities located in other states.)

**Section 39** requires DEQ to establish forms and procedures to allow for consistency in evaluating in-bound contamination at reload and processing facilities, and requires the results of such evaluation to be shared with local governments and the department.

### **Enforcement**

**Section 40** addresses enforcement and recordkeeping. It affords DEQ the right to conduct site inspections; allows DEQ to issue compliance orders and to revoke a previously-approved producer plan; provides for civil penalties consistent with other solid waste laws; requires recordkeeping and records

maintenance by PROs and parties with control of material; and requires the sharing of records when necessary to allow PROs to meet their requirements. It also allows DOJ to bring an action seeking to prohibit the sale of any covered products sold by a producer in violation of Section 4.

## **Miscellaneous**

**Section 41** creates a new “truth in composting” standard that prohibits a collection service provider or compost facility from promoting the acceptance of a material for composting if they know that the material will not be composted.

**Section 42** provides limited protection from federal anti-trust laws to members of PROs.

**Section 43** grants authority to the EQC to adopt rules as necessary to implement all previous sections of this Act. **Section 43A** adds Sections 1 to 43 to ORS 459A.

## **State Procurement Assessment**

**Section 44** directs the Oregon Department of Administrative Services to periodically assess state procurement policies and programs relating to the purchase of recycled materials.

**Section 44a:** Requires DEQ to study, in consultation with Oregon compost facilities, local governments, PROs and the ORSAC, the compostability of covered products and the effects of covered products on composting systems. DEQ will submit a report to the Oregon Legislature by December 2026.

## **Amendments to Existing Statutes**

**Section 45** adds “materials management” to the definitions in ORS 459.005 and changes the definition of “recyclable material” to include any material identified in Section 22 even if the cost of disposal is lower than the cost of recycling.

**Section 46** modifies ORS 459.015 (“Policy”) to clarify the purpose of waste recovery, introduce a whole life cycle perspective, and include principles of environmental and social justice and producer responsibility. It places the solid waste hierarchy within broader materials management concepts, updates the hierarchy to prioritize practices that have lower negative impact, and adds several new considerations to state policy with regards to waste recovery.

**Section 47** amends ORS 459.995 (enforcement) to include requirements in Sections 1-43.

**Sections 48 and 49** amend the definition of “opportunity to recycle” in ORS 459A.005 to include collection of materials on the uniform statewide list described in Section 22. Section 49 also allows the Director of DEQ to approve exemptions to the requirement to provide recycling opportunities to tenants of multi-tenant properties in the case of extreme compliance barriers.

**Section 50** extends the deadline for offering recycling opportunities to tenants of multi-tenant properties from 2022 to 2026, to allow for financial support from PROs prior to requiring service expansion.

**Section 51** amends ORS 459A.007 (opportunity to recycle program elements) by replacing references to collection of “principal recyclable materials” with references to collection of materials on the uniform statewide list (see Section 22).

**Section 52** amends ORS 459A.008 (optional expanded education and promotion program element) by deleting the sub-element involving assessing and reducing contamination in collected recyclables. This deleted sub-element is redundant with new requirements in Section 28.

**Section 53** removes a reference to “principal recyclable materials” from ORS 459A.025.

**Section 54** amends ORS 459A.080 to allow the EQC to adopt rules providing exemptions to the prohibition on mixing of source separated recyclables with solid waste.

**Sections 55 and 56** change cross-references to statute that is renumbered due to other sections.

**Section 57** amends ORS 90.318 (criteria for landlord provision of recycling services), replacing principal recyclable materials with materials on the uniform statewide collection list.

## **Repeals**

**Section 58** repeals the requirements for labeling plastic packaging with a resin identification code and chasing arrows symbol. It repeals Section 36 (labeling task force) after the report to the Legislature is due.

## **Temporary Provisions**

**Section 59** requires PROs to submit their first program plan to DEQ by March 31, 2024, and requires PROs to be implementing their approved program plan by July 1, 2025.

**Section 60** requires producers to join a PRO by July 1, 2025.

**Section 61** requires the first collection service needs assessment (Section 13) to be completed no later than July 1, 2023; requires the first equity study (Section 29) to be completed no later than September 15, 2024; requires the first multifamily recycling needs assessment (Section 30) to be completed no later than September 15, 2024; and requires the first assessment of state procurement laws (Section 44) to be completed by May 15, 2024.

**Section 62** delays the requirement of Section 21 (recycled content in waste containers) until Jan. 1, 2026.

**Section 63** makes Section 19 (prohibition on transfer of commingled recyclables to processing facilities) operative on July 1, 2025, and delays the requirements of Section 19a (expanded equity requirements for commingled recycling processing facilities) until January 1, 2027.

**Section 64** staggers the initial terms of members of the Oregon Recycling System Advisory Council (Section 17).

**Section 65** includes funding for the bill.

## **Unit and Section Captions**

**Section 66** provides standard language related to unit and section captions provided for convenience.

## **Alternative 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](mailto:deqinfo@deq.state.or.us).