



State of Oregon Department of Environmental Quality

Background Paper: Overview of Material Acceptance Lists

Plastic Pollution and Recycling Modernization Act (SB 582, 2021)

Rulemaking Advisory Committee Meeting 3 of 5, Rulemaking 1

Oct. 27, 2022

Background

Oregon's Plastic Pollution and Recycling Modernization Act involves several different lists and types of materials. These include "covered products," "specifically identified materials," and multiple lists of materials designated as suitable for recycling and for which producer responsibility organizations (PROs) or local governments must collect for recycling. This document defines each list, provides an overview of how they overlap and relate to the others, and describes what each list means for PROs.

A separate background paper titled, "[Oregon's Opportunity to Recycle Requirements Relative to Proposed Materials Acceptance Lists](#)" provides more detailed information on what recycling program acceptance lists mean for local governments.

For reference at the Nov. 9, 2022 RAC meeting

Definitions

ORS 459A.863 defines "**covered products**" to mean packaging, printing and writing paper, and food serviceware. It also provides multiple exemptions, which are described later in this document. Producers of covered products are obligated to join a PRO, report sales, and pay fees, regardless of whether the material is placed on a recycling acceptance list or not.

ORS 459A.914 directs the Environmental Quality Commission to identify materials that are suitable for recycling in Oregon. The EQC will distinguish between materials collected and recycled by local governments which meet the state's Opportunity to Recycle requirements, and materials that PROs must collect via depot sites or mobile collection events, as required by ORS 459A.896(1). The **Local Government Recycling Acceptance List** and **PRO Recycling Acceptance List** are collectively referred to as "**material acceptance lists.**"

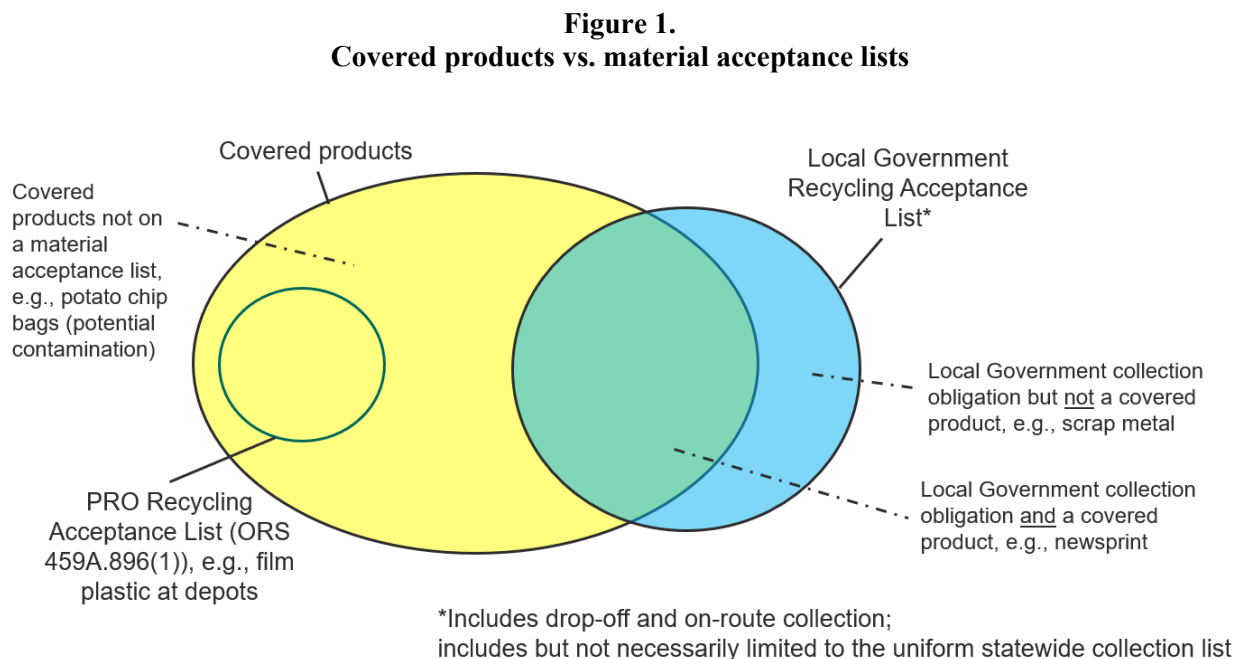
Some materials are suitable for collection through commingling (corrugated cardboard, for example) while others are not (motor oil, for example). ORS 459A.914(4) directs the Department of Environmental Quality to establish and maintain a "**uniform statewide collection list** of materials that are appropriate to be collected through a commingled recycling program." That list represents a subset of the Local Government Recycling Acceptance List.

ORS 459A.917 directs DEQ to establish and maintain a list of "**specifically identified materials.**" As defined in ORS 459A.863, a specifically identified material means "a material or covered product identified by the department under ORS 459A.917." By designating a material as a "specifically identified material," DEQ can require PROs to describe through their program plan (or plan amendment) efforts the PRO will make to support collection, processing, responsible recycling, or responsible disposition of such materials.

The **Opportunity to Recycle** refers both to the name of 1983 legislation and the statute it established (ORS 459A.005 and .007). This law requires local governments to provide members of their community with opportunities to recycle various materials. These requirements are summarized in “Oregon’s Opportunity to Recycle Requirements Relative to Proposed Materials Acceptance Lists.”

Relationships between “covered products” and “material acceptance lists”

Figure 1 illustrates the overlap between “covered products” and the two material acceptance lists (Local Government Recycling Acceptance List and PRO Recycling Acceptance List). The large yellow oval represents all covered products, while the large blue circle represents the Local Government Recycling Acceptance List (Opportunity to Recycle). Overlap between these two shows that many Opportunity to Recycle materials will also be covered products (such as most packaging and printing/writing paper) as depicted in the green shape below. However, the scope of the Local Government Recycling Acceptance List extends beyond just covered products.



Examples of items that might be on the Local Government Recycling Acceptance List that are not covered products generally fall into two categories. The first are materials that could never meet the existing definition of being a covered product. Examples include appliances and scrap metal (collected at local government drop-off sites) as well as motor oil. The second category includes items that would be a covered product but for an exemption in the act. Exemptions are discussed further below.

The second material acceptance list (PRO Recycling Acceptance List) include materials PROs are obligated to collect for recycling at depots or mobile events. This is represented by the smaller yellow circle in Figure 1. This acceptance list is limited only to covered products.

The universe of covered products is large and diverse, and many covered products will likely not be designated as suitable for recycling on either acceptance list, at least not initially. Regardless, items made

of such materials (unless exempted) are still “covered products” even if they are not added to a recycling material acceptance list.

Exemptions

Materials exempt from the definition of “covered product” may impact the relationship between “covered products” and material acceptance lists. Some exemptions are for all materials that share a characteristic that is easily identified by the public or a recycler. Examples of these exemptions include all bound books, napkins, and pallets.

Other exemptions are not material-specific, and therefore very difficult for households or recycling processors to identify and treat separately. For example, a cardboard box used to package multiple cartons of tubes of toothpaste containing fluoride is exempted from being a covered product. But identical items used to package non-fluoride toothpaste might not be exempted. Because it is not practical to distinguish between the two different cardboard boxes, both will be collected and recycled together. Producers of covered products will pay fees to the PRO, while producers of exempt products will not.

“Specifically identified materials”

DEQ may designate materials as “specifically identified materials.” For these materials a PRO is obligated to:

- **Support responsible recycling** of specifically identified materials, including collection, education, processing, end markets, and any other efforts. The PRO will describe its efforts to meet these requirements in its program plan per ORS 459A.875(2)(g).
- **Ensure responsible disposition** of specifically identified materials that are covered products “to the extent practicable” per ORS 459A.869(7) and ORS 459A.896(2).

While statute allows DEQ to name any material to the list of specifically identified materials, the consequences of such a listing result in new obligations only to PROs. As a practical matter, specifically identified materials can be thought of as a subset of covered products.

Any covered product could be named as a specifically identified material, regardless of its placement (or lack of placement) on a material acceptance list. For example, DEQ might choose not to recommend placement of a specific type of packaging on a recycling material acceptance list, but nevertheless identify that material as a specifically identified material. In doing so, DEQ would prompt a requirement that the PRO describe in its plan how it will *improve* responsible recycling of that material, potentially paving the way to include the material on a material acceptance list in the future, and also hold the PRO responsible, “to the extent practicable” for ensuring that such materials collected are responsibly managed.

Summary of PRO Obligations

Responsible disposition

As noted above and in a [rule concept discussed at the July 20, 2022](#) Rulemaking Advisory Committee meeting, the Plastic Pollution and Recycling Modernization Act requires PROs to help ensure “to the extent practicable” that “covered products collected in this state for the purpose of recycling and described in ORS 459A.869(7) will be:

- a) delivered to responsible end markets;
- b) managed according to the hierarchy of materials management options under ORS 459.015(2), and
- c) managed in an environmentally protective way through to final disposition.”

These obligations apply to four types of covered products, as described in ORS 459A.869(7):

1. All covered products that are on the **PRO Recycling Acceptance List**.
2. All covered products that are on the **Uniform Statewide Collection List**, a subset of the Local Government Recycling Acceptance List.
3. All covered products that are also **specifically identified materials**.
4. All other **materials that the PRO uses to count towards achievement of the mandatory recycling goals for plastic packaging and food serviceware** as described in ORS 459A.926. Those goals first go into effect in 2028.

When materials are under the PROs' direct control (including those contracted for collection under ORS 459A.896(1)), the PRO has the ability to direct disposition to responsible end markets. When materials are not under the PROs' direct control, the PRO may still attempt to influence disposition. Several examples of ways that a PRO may influence disposition of materials are described in a [rule concept](#) discussed at the July 20, 2022 rulemaking advisory committee meeting.

Additional obligations

PROs have additional obligations for certain covered products depending on which recycling acceptance list the material is on:

- Covered products on the **PRO Recycling Acceptance List** are subject to the convenience standards, collection targets, and performance standards established by the commission under ORS 459A.914(7).
- For covered products on the **Local Government Recycling Acceptance List**, PROs will compensate local governments for:
 - Service expansion: for local governments that want to expand collection of those materials (ORS 459A.890(6)).
 - Transportation more than 50 miles: for local governments transporting to responsible end markets or processing facilities more than 50 miles away (ORS 459A.890(2)).
 - Processing costs and commodity risk: PROs pay a processor commodity risk fee to Material Recovery Facilities (ORS 459A.923), to ensure that commingled materials are properly sorted and sent to responsible end markets.
- Covered products that are **not on either recycling acceptance list** have the potential to contribute to contamination. PROs have additional obligations under ORS 459A.884 to help fund all system costs, including but not limited to those involving reduction and management of contamination:
 - Local government contamination reduction/assessment (ORS 459A.890(3) and (4)).
 - Contamination management fee paid to compensate MRFs for their costs of removing and disposing of covered products that are contamination (ORS 459A.920).

Through fees paid to their PRO, producers of all covered products, regardless of disposition pathway, will also fund costs associated with program administration, the PRO's obligations under ORS 459A.893 to develop educational resources and promotional campaigns encouraging Oregon waste generators to recycle materials on the acceptance lists, and waste prevention and reuse programming (ORS 459A.941).

More information

Rule concepts related to local government compensation are located on the [rulemaking webpage](#), including documents for the Sept. 28, 2022 meeting.

The background paper titled “[Oregon’s Opportunity to Recycle Requirements Relative to Proposed Materials Acceptance Lists](#)” provides more detailed information on what recycling program acceptance lists mean for local governments.

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