

# Recycling Updates 2023 Rulemaking

## Plastic Pollution and Recycling Modernization Act



### Public Hearing 1 Summary

June 27, 2023, 11 a.m. – 11:31 a.m. PT

## List of attendees

### DEQ Staff:

- **Hearing Officer:** Arianne Sperry
- **Rulemaking Coordinator:** Roxann Nayar
- **Subject Matter Experts:** David Allaway, Nicole Portley, Justin Gast

### RAC Members:

- Michael McHenry
- Kristan Mitchell
- Jeff Murray
- Pam Barrow

### Members of the Public:

- There were 117 members of the public in attendance.

## Agenda

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| <b>11 a.m.</b>    | <b>Welcome and review agenda</b> <ul style="list-style-type: none"><li>• Rules Overview</li><li>• Question and answer period</li><li>• Formal public comment period</li></ul> |
| <b>11:31 a.m.</b> | <b>Adjournment</b>  |

### Welcome

DEQ staff welcomed everyone and discussed the purpose of the meeting. This meeting was 1 of 2 public hearings for the Recycling Modernization Act Rulemaking #1. The purpose of this hearing was to take public comments on the proposed action to adopt permanent amendments and new rules to Oregon Administrative Rules Chapter 340, Division 90, Recycling and Waste Reduction.

### Summary

#### Overview of Rulemaking Process

Roxann Nayar presented an overview of the rulemaking process, the purpose of the public comment period and how long the public comment period will be open.

- Draft rules presented to Environmental Quality Commission: Nov. 16 and 17, 2023
- Public Comment Period: May 25, 2023 to July 28, 2023

This public comment period is an opportunity for all members of the public to provide written and verbal comments on the proposed rules.

#### Overview of Recycling Modernization Act

Roxann Nayar presented an overview of the Recycling Modernization Act, the rule topics, the timeline for implementation, and how implementation is described in statute. Roxann outlined roles for Producer Responsibility Organizations in context of the Act. Roxann presented an overview of proposed rules. The 3 topics included:

- Recycling Acceptance Lists
- Producer Responsibility Organization Obligations
- Local Government Compensation

### **Recycling Acceptance Lists**

The proposed recycling acceptance list rules establish separate statewide recycling acceptance lists: the local government acceptance list and PRO acceptance list. The Uniform Statewide Collection List is also proposed in the draft rules.

The Uniform Statewide Collection list describes all materials that can be collected and commingled. It is a subset of the Local Government List which identifies materials local governments will be required to provide opportunities for recycling. The PRO acceptance list describes the materials PROs are required to provide collection and recycling opportunities for.

Under this proposed rule, there are also rules that describe Convenience Standards, which makes recycling more accessible and convenient for customers, and Performance Standards and Collection Targets, which are requirements the PROs will need to meet.

There were no clarifying questions related to Recycling Acceptance Lists.

### **PRO Obligations**

The PRO Obligation rules clarify the PRO's obligations under the Act related to:

- Annual administration fees
- Market Share
- PRO Coordination in the event there are multiple PROs operating in the system
- Responsible end markets and the process for verifying that recycling chains meet the "responsible" standard
- Confidentiality related to the proprietary information PROs will be collecting
- The method for estimating covered products
- The process for new PROs to enter Oregon's system

There were no clarifying questions related to PRO obligations.

### **Local Government Compensation**

The transportation cost reimbursement rules clarify when and how local governments or their service providers can receive compensation for transportation costs of collected materials when they are at least 50 miles from the nearest recycling depot or recycling reload facility to a commingled recycling process facility or responsible end market.

The recycling services expansion rules clarify how local governments, or their service providers can be eligible for PRO funding for recycling service expansion, and propose using PSU's Population Research Center as the census reference to be used to determine populations for the per capita reimbursement for contamination reduction programming.

There were no clarifying questions related to Local Government Compensation.

### **PRO Obligations Illustrated**

Roxann Nayar presented a slide illustrating how these rules and topics are related and how they fit into the bigger picture of the Act and larger recycling system including PRO's obligations.

### **Question and Answer Period**

Arianne Sperry provided an opportunity for attendees to ask any clarifying or informational questions not related to the public comment period. There were no clarifying questions asked.

### **Public Comment**

DEQ opened the public comment period at 11:21 a.m. Arianne Sperry provided instruction on how to provide comment. Stephanie Caldera facilitated the public comment period. There were 2 public comments provided:

- Andrew Jolin, Direct Pack, Sustainability Director- gave an update and expressed interest in purchasing PET thermoform from material recovery facilities (MRFs) in Oregon. Direct Pack operates a wash line on the border of California for PET thermoforms, and they have received a grant to double their wash line capacity. They stated that Direct Pack has addressed responsible end market concerns related to

exporting of contamination by implementing a process that sorts materials twice, and addressing water use concerns by using recycled and rain water in their wash line system

- Dan Felton, Ameripen, Executive Director- thanked DEQ and expressed that they were pleased with several elements of the proposed rule but had some concerns. In Ameripen's verbal comments they provided a summary of the concerns and clarifying questions they will be providing to DEQ in written comments following the hearing:

A summary of the concerns:

- Concept of responsible end markets and requirements for producers upon implementation and how it will be maintained once running. They are hoping for flexibility as program is implemented on producer responsibilities to ensure responsible end markets.

A summary of the clarifying questions:

- Please provide more information about the formal process that will be used to consider adding materials currently not proposed for the Uniform Statewide Collection List such as PET thermoform containers, PET #1, PP #5, molded fiber food surface containers, PET, and PP caps and lids.
- Whether there it is possible a PRO could request temporary variance from convenience standards.
- Clarifying clear authority for PRO to establish performance standards for depots and other service providers that it contracts with to provide service.
- Provide more detailed information about the annual administrative fees, accounting, and data documentation that PRO will have to reimburse to DEQ on an annual basis.
- Whether local government service providers will need to provide information or report PRO funding spending.

### **Next steps**

Feedback can be submitted until July 28, 2023

Public hearing 2 of 2 is on June 29, 2022

EQC meeting in November 2023

### **Closing statements**

DEQ staff thanked attendees for their time.

With no further comments or questions, the meeting was adjourned at 11:32 am.

### **Translation or other formats**

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