Rulemaking Advisory Committee Meeting #4
Plastic Pollution and Recycling Modernization Act

Jan. 11, 2023
Zoom Webinar
# Agenda

<table>
<thead>
<tr>
<th>TIME</th>
<th>TOPIC</th>
</tr>
</thead>
<tbody>
<tr>
<td>9 a.m.</td>
<td>Welcome, Overview of Today’s Meeting</td>
</tr>
<tr>
<td>9:10 a.m.</td>
<td>Introductions</td>
</tr>
<tr>
<td>9:20 a.m.</td>
<td>RAC #3 Meeting Follow-up</td>
</tr>
<tr>
<td>9:40 a.m.</td>
<td>Proposed Materials Acceptance Lists, Part 2</td>
</tr>
<tr>
<td>10:30 a.m.</td>
<td>BREAK</td>
</tr>
<tr>
<td>10:40 a.m.</td>
<td>Collection Targets, Convenience Standards, Performance Standards</td>
</tr>
<tr>
<td>12 p.m.</td>
<td>LUNCH BREAK</td>
</tr>
<tr>
<td>12:30 p.m.</td>
<td>Public Input Period*</td>
</tr>
<tr>
<td>1 p.m.</td>
<td>Collection Targets, Convenience Standards, Performance Standards</td>
</tr>
<tr>
<td>1:30 p.m.</td>
<td>Additional Requirements Related to Recycling Acceptance Lists*</td>
</tr>
<tr>
<td>1:55 p.m.</td>
<td>Review meeting schedule, next steps, and adjourn at 2:00pm*</td>
</tr>
</tbody>
</table>

*Note: Times subject to change and topics may begin earlier than listed*
Webinar Tips

1. Join audio either by phone or computer, not both.
2. For panelist discussion and comments, use the raise hand button to get in the queue; if by phone press *9.
3. This meeting is being recorded.
4. For Zoom technical issues email stephanie.caldera@deq.oregon.gov or text 971-279-9517.
Meeting ground rules

• Listen and treat everyone with respect
• Allow one person to speak at a time – raise hand
• Be prepared and set time aside for the meetings
• Provide a balance of speaking time
• Bring concerns and ideas up for discussion early in the process
• Comment constructively
• Move around and take care of yourself as needed
Introductions- DEQ Staff

Cheryl Grabham, Program Manager, Materials Management Product Stewardship Team

David Allaway, Senior Policy Analyst

Justin Gast, Natural Resource Specialist

Nicole Portley, PRO Program Plan Lead

Stephanie Caldera, Policy Analyst

Roxann Nayar, Recycling Program Analyst
Input and Engagement

- RAC input is welcome throughout the process
- DEQ will clarify and provide information when possible
- Input received within 10 days of RAC meetings will help staff prepare in advance of following meeting
- Comments and questions received will be considered during rule development
- Thank you for offering solutions
- Formal comment period will be in May-June 2023
Rulemaking 1 Timeline

We are here

Jan. 11, 2023  March 10, 2023  May-June 2023  Sept. 2023
Statute, rule, and program plans

- Statute establishes requirements (set by Legislature)
- Administrative rules are more specific (adopted by Environmental Quality Commission)
- Program plans include operational details (approved by DEQ)
Transportation Costs Reimbursement

ORS 459A.890(2)(a)

- The costs of transporting covered products from a recycling depot or recycling reload facility to a commingled recycling processing facility or a responsible end market...are eligible costs for funding or reimbursement by a producer responsibility organization.
Response to Select Comments

- Financial impacts
- Stationary collection points, siting and participation
- Today’s reality vs. tomorrow’s possibilities
### Financial impacts

Not a comprehensive list

<table>
<thead>
<tr>
<th>Obligation</th>
<th>PRO role?</th>
<th>This rulemaking?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide on-route and depot recycling services (at disposal sites) (ORS 459A.005) of designated materials</td>
<td>No</td>
<td>Partial</td>
</tr>
<tr>
<td>Promote recycling to the public (ORS 459A.005 and .007)</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Conduct statewide promotion of uniform statewide list, develop outreach materials for local use</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Fund local government expansions in collection service</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Collect and recycle designated materials; meet collection targets, convenience and performance standards</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Compensate local government generator-facing contamination programming, long-distance freight</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Fund local government assessment of material quality (post-collection)</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Ensure materials go to responsible end markets, etc., where practicable</td>
<td>Shared</td>
<td>Yes</td>
</tr>
<tr>
<td>MRFs comply with new permit requirements</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Pay contamination management, processor commodity risk fees to MRFs</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Administer a PRO, assess and eco-modulate membership fees, etc.</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Pay program plan fee and annual administrative fee to DEQ</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Pay waste prevention and reuse fee to DEQ</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Achieve statewide plastic recycling goals</td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>
PRO Collection Points

• Primarily intended to supplement local government collections – for materials not readily commingled

• 4 types:

Existing Multi-Material Depots (expanded)

Return-to-Retail

Single-Material Drop-Box

New Multi-Material Depot (PRO)
Imagining the future

- Service improvements, consistency
- Culturally responsive outreach
- Expanded customer feedback (contamination reduction)
- Consistent performance standards for MRFs
- Responsible end markets
- Financial assistance and assurances
- Truth in labeling
Proposed PRO Recycling Acceptance List

• Glass packaging
• Steel and aluminum aerosol packaging
• Single use pressurized cylinders (e.g., propane)
• Aluminum foil and pressed foil products
• Shredded paper
• Polyethylene film
• Plastic buckets, pails and storage containers (HDPE and PP)
• Block white expanded polystyrene
• PE and PP lids
• HDPE package handles (e.g., 6-pack handles)
## Comparison of Commingled Acceptance Lists (pt. 1)*

<table>
<thead>
<tr>
<th></th>
<th>Medford</th>
<th>Eugene</th>
<th>USCL (proposed)</th>
<th>Portland</th>
<th>Seattle</th>
<th>Los Angeles</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cardboard</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Pizza boxes</td>
<td>X</td>
<td>✓</td>
<td>✓</td>
<td>X</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Newspaper</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Polycoated cartons</td>
<td>X</td>
<td>X</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Polycoated paper cups</td>
<td>X</td>
<td>X</td>
<td>✓</td>
<td>X</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Freezer packaging</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Shredded paper</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>✓</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Other printing and packaging paper</td>
<td>X</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Aluminum/steel food/beverage packaging</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Aluminum foil</td>
<td>X</td>
<td>✓</td>
<td>X</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Aerosol containers</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>

*Summary comparison only; for exact details please see DEQ rule concept (USCL) and program websites*
Comparison of Commingled Acceptance Lists (pt. 2)*

<table>
<thead>
<tr>
<th></th>
<th>Medford</th>
<th>Eugene</th>
<th>USCL (proposed)</th>
<th>Portland</th>
<th>Seattle</th>
<th>Los Angeles</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scrap metal</td>
<td>X</td>
<td>X</td>
<td>(some)</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Wire hangers</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>✓</td>
</tr>
<tr>
<td>1 &amp; 2 plastic bottles and jars</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Other plastic bottles and jars</td>
<td>X</td>
<td>X</td>
<td>(some)</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Buckets</td>
<td>X</td>
<td>X</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Plant pots</td>
<td>X</td>
<td>X</td>
<td>(some)</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Clear plastic cups (PET, PP)</td>
<td>X</td>
<td>X</td>
<td>✓</td>
<td>X</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Other plastic cups</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>PE &amp; PP lids</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>PET clamshells</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Glass</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>

*Summary comparison only; for exact details please see DEQ rule concept (USCL) and program websites
Evaluation Criteria (ORS 459A.914(3))

(a) The stability, maturity, accessibility and viability of responsible end markets;
(b) Environmental health and safety considerations;
(c) The anticipated yield loss for the material during the recycling process;
(d) The material’s compatibility with existing recycling infrastructure;
(e) The amount of the material available;
(f) The practicalities of sorting and storing the material;
(g) Contamination;
(h) The ability for waste generators to easily identify and properly prepare the material;
(i) Economic factors;
(j) Environmental factors from a life cycle perspective; and
(k) The policy expressed in ORS 459.015 (2)(a) to (c).
Collection Targets, Convenience Standards and Performance Standards
Proposed PRO Recycling Acceptance List

- Glass packaging
- Steel and aluminum aerosol packaging
- Single use pressurized cylinders (e.g., propane)
- Aluminum foil and pressed foil products
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- Polyethylene film
- Plastic buckets, pails and storage containers (HDPE and PP)
- Block white expanded polystyrene
- PE and PP lids
- HDPE package handles (e.g., 6-pack handles)
Rule Concepts: Collection Targets

Rule Concept I
1. Collection targets should be expressed on a relative basis (% of generation), not absolute (tons)
2. PROs report annually weight of material collected (numerator) and generated (denominator)
3. Estimates shall be documented
4. Contamination doesn’t count towards recovery
5. Only materials collected under PRO-supported collections count towards achievement of targets

Rule Concept II
See document for material-specific targets
Rule Concepts: Convenience Standards

PROs must “where possible” first contract with “existing recycling depots or drop off centers”

Rule Concept III
“Existing recycling depots or drop off centers” include:

a. Those used to satisfy ORS 459A.005(1)(a)(A) (solid waste disposal sites or more convenient location)
b. Those used to satisfy ORS 459A.007(1)(g) ("expanded depots")
c. Those operated by a Tribal government
d. Those otherwise located at sites with solid waste permits
e. Those otherwise operated by a local government or its service provider

“Where possible” means:

a. Existing site operator is willing to contract, and
b. Existing site operator is able to contract, and
c. Annual cost to the PRO does not exceed 1## percent of what the PRO would pay elsewhere, and
d. Cost of reimbursement is reasonable and only pays for additional costs (not existing costs)
Rule Concepts: Convenience Standards

Rule Concept IV

• Minimum number of collection points:
  – All “existing depots” where “possible”
  – Additional sites if needed in order to meet population-based quotas
• Distribution of collection points within the same city
• Days and hours of operation
• Notification of changes and continuity of service

Anticipated outcome:
• 130 – 160 collection points for “base” materials
• 175 – 195 collection points for “enhanced” materials
Rule Concepts: Convenience Standards

Rule Concept V

1. If a materials on the PRO Recycling Acceptance List subsequently moves onto the Uniform Statewide Collection List, PRO collection obligations reduce to “existing” depots only, and only where such depots do not commingle the material

2. PROs may propose alternative compliance methods in their program plan
Public Input Period
Rule Concepts: Performance Standards

Rule Concept VI

1. Program plan requirements, monitoring and compliance
2. Free to public
3. Promotion
4. Accessibility
5. Contamination prevention and management
6. Quality assurance (outbound materials)
7. Litter mitigation
8. Compliance
9. Self-reporting of incidents
Rule Concepts: Performance Standards

Rule Concept VII
One-day events: public outreach; event staffing and resourcing

Rule Concept VIII
Expanded polystyrene:
1. Reduction of life cycle impacts; densification prior to long-haul transport
2. Densification technologies (mechanical preferred over thermal)

Aerosol containers and pressurized cylinders
3. Staffed collection; written affirmation of RCRA exempt status for businesses
4. Aerosols “overmanaged” as universal waste
5. Pressurized cylinders “overmanaged” as hazardous waste
Recycling Acceptance Lists: Additional Requirements

Rule Concept: Additional Requirements Related to Recycling Acceptance Lists

State of Oregon Department of Environmental Quality

Rule Concept: Additional Requirements Related to Recycling Acceptance Lists

Plastic Pollution and Recycling Modernization Act (ORS 257, 2021)

Administrative Committee Meeting 4.6.1, Restating I.

Jun 28, 2022

Background

This section provides additional rule concepts on the topic of recycling acceptance lists. Concepts related to the following topics:

- Membership fees charged by Producers Responsibility Organizations (PROs) to their members
- Material yield requirements in the context of “responsible end markets”
- Revised or existing rates
- Effective date and all rules related to material acceptance lists

Concepts for discussion at Jan. 11, 2023 RAC meeting

PRO Membership Fees

Background

ORS 459A.895(2) requires producers to pay an annual membership fee to a producer responsibility organization. ORS 459A.895(3) provides requirements for such fees. Among these, ORS 459A.895(3) imposes special requirements on the fees assessed on “covered products with or distributed in or into this state that are not accepted by or recycling collection programs in this state.” (Emphasis added). This concept focuses on what does it mean to be “accepted” by recycling collection programs in this state? This question is significant as some covered products (e.g., the Local Government Recycling Acceptance List and the PRO Recycling Acceptance List) are only accepted in limited geographic scope.

1. Rule concept for discussion: “Accepted by recycling collection programs in this state” (ORS 459A.895(3))

1. A material is “accepted by recycling collection programs in this state” (for the purpose of ORS 459A.895(3)) only if it is designated by administrative rule on the Local Government Recycling Acceptance List or the PRO Recycling Acceptance List, or otherwise has been added to the Uniform Materials Collection List by the mechanisms provided for in ORS 459A.914(6)(b).
Additional Requirements: PRO membership fees

ORS 459A.884(3)

• Covered products sold or distributed in or into this state that are not accepted by recycling collection programs in this state shall be assessed base fee rates as follows:
  o (a) [average base fee rates for covered products must be higher than the average for covered products that are accepted by recycling collection programs in this state]
  o (b) [base fee rate shall be approximately proportional to the covered products’ relative contribution to the financial obligations of the PRO]

Materials that are…
• on the Local Government Recycling Acceptance List,
• on the PRO Recycling Acceptance List, or
• added to the USCL through a PRO plan-triggered process
Additional Requirements: Yield

Responsible End Market Rule Concept: Remaining Elements (in red)

1. “End market” material-specific definition → Yield Threshold
2. 4-prong standard for “responsible” → List of EQC-approved certifications
3. Implementation pathways
4. Auditing requirement
5. Definition of “practicable” and pathways for proving ‘impracticability’ → Benchmark
Proposed Yield Threshold: 60%

What is Yield and Why Do We Care?

YIELD = 60%

MRF or PRO Collection Point

100 tons, baled recyclables

Reclaimer/End Market

60 tons of recyclate

40 tons, landfilled
Proposed Yield Threshold: Details

- Could be applied in compound to all supply chain nodes after the MRF
- Applied individually to each material even in a mixed bale
- For paper cans, applied individually to the steel or paper fractions of the material
- Calculated without inclusion of contaminants or incidental materials
Revisions to Existing Rules

“Straightforward” amends necessary to align rules with statute

Other amendments:
1. Eliminate references to “principal recyclable materials”
2. Replace Metro yard debris rule (no functional change)
3. Modify language to avoid conflicts with the Local Government Recycling Acceptance List (specific to rigid plastic containers)
4. Clarify method of calculating recycling rate for plastic packaging and food serviceware
5. Align with updated state policy hierarchy for management of materials
6. Change definition of “recyclable material” for purposes of “fair market value exemption”
7. Other housekeeping changes
Acceptance Lists: Effective Dates

- Obligations to collect materials on acceptance lists established by this rule become effective July 1, 2025
- 30-month grace period for local governments (enforcement discretion)
RAC Meeting Schedule

March 10, 2023

Topics:

• Draft rules preview
• Equity & Fiscal Impact Statements
More information

Rulemaking webpage
oregon.gov/deq/rulemaking/Pages/Recycling2023.aspx

Email input to recycling.2023@deq.oregon.gov