



State of Oregon Department of Environmental Quality

Plain Language Guide to Draft Rules

Plastic Pollution and Recycling Modernization Act (SB 582, 2021)
Rulemaking Advisory Committee Meeting 6 of 6, Rulemaking 1

Background

The Oregon Department of Environmental Quality is conducting the first of two rulemakings to clarify and implement the Plastic Pollution and Recycling Modernization Act. The objective of the rulemaking is to propose rules related to the following topics:

- Producer Responsibility Organization Plan content
- DEQ administrative fees
- Funding and reimbursement for eligible expenses incurred by local governments
- Materials approved for recycling collection in Oregon and for certain materials, collection targets, convenience standards and performance standards for recycling

Developing draft rules

DEQ began the rulemaking in July 2022 through a process that adheres to the public process requirements established in the Oregon Administrative Procedures Act. DEQ is developing program rules to propose for the Environmental Quality Commission's consideration. The EQC is a decision-making body that adopts proposed rules into Oregon administrative law.

A guide to the draft rules

The following table provides a plain language explanation of the related draft Oregon Administrative Rules DEQ is developing for the Recycling Modernization Act as part of this rulemaking. A second rulemaking will address other topics. Updated rule drafts will be made available in the future as DEQ continues through this rulemaking and public comment period.

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Summary of draft rules

Following are summaries of draft rules. Topics in bold signify recent changes to rule concepts based on input from Rulemaking Advisory Committee members and others.

Rule Number	Rule Title	Explanation
Producer Responsibility Obligations		
OAR 340-090-0630	Responsible End Markets	<p>These rules clarify the PROs’ obligation to ensure, to the extent practicable, that materials collected for recycling are sent to “responsible end markets.” The rules define the “end market” on a material-specific basis for glass, metal, plastic and paper recycling supply chains. They also establish a four-element standard for “responsible”—a “responsible” market is compliant with all relevant environmental, public health, and labor laws; maintains a transparent supply chain; manages waste in an environmentally-sound fashion; and achieves adequate yields. The “responsible” standard is to be applied individually to all entities in the recycling supply chain up through and including the end market.</p> <p>The rules outline PROs to verify that recycling supply chains meet the “responsible” standard—they can conduct their own evaluations meeting standards laid out in the rules, or they can obtain third-party certification from certifications approved by the commission (none have yet been approved). The rules also lay out auditing and reporting requirements by which the PROs will demonstrate to DEQ that they are in compliance with these rules, and the auditing must include random GPS bale tracking to ensure that materials are actually going where they are indicated to be going.</p> <p>If verification reveals an end market that does not meet the “responsible” standard, the rules define practicable actions that a producer responsibility organization can take to achieve compliance, including improvements to the existing market or development of a</p>

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		<p>new, alternative market. The rules also establish a practicability threshold of \$2,017 per ton (in 2021\$, and to be adjusted annually using the CPI) —if no solution can be implemented at a price point below this amount, the PRO can claim to DEQ that no practicable solution can be undertaken. DEQ may accept this claim but it will also trigger a review of the material’s inclusion on an acceptance list. The threshold effectively clarifies the meaning of “practicable” in the context of responsible end markets.</p>
OAR 340-090-0640	Producer Responsibility Organization Coordination	<p>These rules clarify how DEQ will administer the program if two or more producer responsibility organizations form in Oregon. The rules allow DEQ to appoint an interim coordinator to facilitate coordination between the PROs until Dec. 31, 2026, or until the PROs develop their own coordination plan that has been approved by the Department, whichever comes first. The interim coordinator will also assign time-sensitive coordination tasks to approved PROs and willing applicant PROs after the first draft program plan deadline of March 31, 2024, to ensure that coordinated components are in place for the start date of July 1, 2025. Such tasks as setting up the PRO depot network and developing education materials relative to the Uniform Statewide Collection list will be assigned to individual PROs, with costs divided among all PROs in proportion with modified market share.</p>
OAR 340-090-0640	Producer Responsibility Organization Fees	<p>DEQ is required to establish a producer responsibility organization plan review fee and annual fees that cover DEQ’s ongoing costs of implementing, administering, and enforcing significant portions of the Act. These fees will be paid by the producer responsibility organization(s) from membership fees collected from the producers of covered products.</p> <ul style="list-style-type: none"> • DEQ will assess a one-time fee of \$150,000 to each prospective PRO for review of a draft program plan submission. <p>DEQ will assess an annual administration fee to be paid collectively by the PROs in each year of the program beginning in 2025. This fee will be \$4,000,000 annually for the first four years of program implementation, and then will be \$3,000,000 for all subsequent</p>

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		<p>years of the program. The higher initial fee amount will allow for recuperation of start-up costs spent by DEQ prior to the start date. This fee will operate as a cap and may be lowered in a given year to reflect actual costs.</p>
OAR 340-090-0660	Market Share and Modified Market Share	<p>These rules establish a weight-based method for calculating market share. Market share will amount to the percentage of weight of covered products that an individual producer's or PRO's covered products represent.</p> <p>Market share is used in statute to establish a threshold for the minimum allowed size of a PRO to operate in Oregon's program (its members must represent a combined 10 percent of statewide market share). Market share is also the measure for identification of the top 25 producers in the state, which will be required to evaluate and disclose the environmental impacts of a portion of their product portfolio on a biennial basis.</p> <p>These rules establish standards and requirements for coordination among multiple PROs (which implicitly includes coordination on the fair allocation of recycling system costs among multiple PROs). A separate calculation called modified market share will be used to divide costs among PROs. In contrast with market share, which is a strictly weight-based calculation, modified market share incorporates a material-specific unit factor, multiplying the unit factor by the weight of product of that material. Weight of product multiplied by material-specific unit factor is summed across all materials in a producer's portfolio, then across all producers in a PRO, and is subsequently divided by that of all producers across all PROs to yield a PRO's modified market share. The costs that PROs must cover under the Act are then divided among multiple PROs in proportion to market share.</p> <p>The use of the material-specific unit factor, which represents the cost of that material to Oregon's recycling system, in the modified market share formula allows for materials (and their producers) to</p>

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		pay their fair share for the modernization of the system. Some lighter weight materials can cost more to recycle and some heavier materials less. Allocation of costs based on weight alone could be unfair.
OAR 340-090-0670	Proprietary Information	This rule is intended to limit vagueness as to what types of information are subject to public disclosure. The rule defines “proprietary information,” which is applied in statute to several types of information reported to DEQ, as a “trade” secret” under the Oregon Uniform Trade Secrets Act. It also establishes a list of information that will not be considered proprietary.
OAR 340-090-0680	Program Calendar	This rule establishes the calendar for program plan periods, with the first plan period starting on July 1, 2025, and running for three calendar years (2025-2027). All subsequent plan periods will run for five years and begin on Jan. 1 of the first year, concluding on Dec. 31 of the fifth year. Per statute, renewal plans must be submitted by existing PROs 180 days before the end of a program plan period. The rule indicates that new PROs can submit draft program plans during the 180-day renewal periods or at other times with prior department approval.
OAR 340-090-0690	Process for PROs with less than 10 percent market share	This rule describes a process whereby a PRO would be released from the Oregon system because its market share had fallen below the 10 percent threshold laid out in ORS 459A.869(12).
OAR 340-090-0700	Reporting for plastic goal	This rule requires PROs, in annual reporting of progress toward the statewide plastic recycling goals, to use a product categorization that aligns with the Uniform Statewide Collection List.
OAR 340-090-0710	Program plan amendments and producer responsibility organization fees	This rule clarifies that when there are membership fee adjustments, the PROs need to go through the process of officially amending their program plans only when the fee structure is changed, rather than for routine, annual updating of PRO fee schedule

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OAR 340-090-0720	Producer responsibility organization membership fees	Statute requires PROs to charge members lower fees, on average, for materials accepted for recycling compared with materials not accepted for recycling. This rule clarifies that a material is considered accepted for recycling if it is on the Local Government Recycling Acceptance List or the PRO Recycling Acceptance List, or otherwise has been added to the Uniform Statewide Collection List by the PRO through its program plan.
Local Government Compensation		
OAR 340-090-0730	Transportation Costs Reimbursement	<p>These rules describe when a local government or a service provider can request funding or reimbursement for the costs associated with transporting covered products.</p> <p>When the transportation of covered products needs to travel 50 miles or more from a recycling depot or recycling reload facility to a commingled recycling processing facility or responsible end market, a PRO will reimburse a local government or its service provider for those transportation costs.</p>
OAR 340-090-0740	Method for Determining Payment of Transportation Costs	The PRO(s) will provide a method for calculating transportation costs in their program plan.
OAR 340-090-0750	Expansion of Service	<p>These rules provide clarification for when a producer responsibility organization will provide advanced funding or reimburse local governments or their service providers for eligible expenses associated with expanding residential, multifamily, and commercial recycling services. To be eligible for PRO compensation under these rules, a local government must have completed the needs assessment survey expressing interest first.</p> <p>These rules also specify the source of census data that must be used to calculate the annual cap on per capita funding a local government, the local government's service provider, or other person authorized by the local government to receive payment.</p>

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Rule Number	Rule Title	Explanation
OAR 340-090-0760	Expansion of Service of Funding and Needs Assessment	<p>For those that expressed interest in expanding recycling services, the rules specify eligible expenses for on-route services, depots, and the method PROs will apply to processing expansion requests.</p> <p>The rules specify the eligible expenses for new or expanded on-route start-up costs, including:</p> <ul style="list-style-type: none"> • Collection trucks • Containers or roll carts • Monitoring equipment • New program promotional literature • Staff safety equipment • Recycling reload facility, if none other is available or existing facilities are inadequate <p>The rules specify the eligible expenses associated with new or expanded depot collection program start-up and operational costs, which include but are not limited to:</p> <ul style="list-style-type: none"> • Land acquisition • Site preparation-related costs • Containers • Signage • On-site monitoring equipment • Equipment to move, compact, bale, and load recyclables for shipment • Maintenance of on-site equipment and technology • Hiring and training staff • Purchasing staff safety equipment • Other administrative-related costs
Materials Acceptance Lists		
TBD	Materials Acceptance Lists	These rules establish separate statewide recycling materials acceptance lists: the Local Government Recycling Acceptance List and the PRO Recycling Acceptance List.

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Rule Number	Rule Title	Explanation
		<p><i>Local Government Acceptance List:</i> Local governments are required to provide opportunities for recycling materials designated on the Local Government Acceptance List. The Uniform Statewide Collection List – a list of materials that may be commingled with each other – is a subset of the Local Government Acceptance List. While all materials on the Local Government Acceptance List are also designated for collection at recycling depots under the Opportunity to Recycle requirements, many but not all are also designated as required for collection on-route.</p> <p><i>PRO Recycling Acceptance List:</i> PRO(s) are required to provide collection and recycling opportunities for materials designated on the PRO Recycling Acceptance List.</p> <p>Please see Appendix I for the list of materials designated on both lists.</p>
TBD	Collection Targets	<p>Collection targets are the quantities of materials the PRO(s) are obligated to collect in a given program plan year. The rules describe collection target criteria that must be described in the PRO program plan:</p> <ul style="list-style-type: none"> • All targets will be described by percentage of generation • All targets will be calculated based on weight (tons or kilograms collected, divided by tons or kilograms generated) • PRO(s)' annual reports must provide the weight of materials collected, the estimate of the weight of materials generated, and the ratio of the two, of the materials from PRO Recycling Acceptance List. <ul style="list-style-type: none"> ○ The collection rate will be calculated as the weight of the collected materials divided (numerator) by the weight of materials generated (denominator)

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		<ul style="list-style-type: none"> ○ If a material does not have a collection target, then only the weight of the collected materials must be reported. • The PRO(s) must document all the primary and secondary references and data used to calculate the material generation estimates. Sales data cannot be sole reference of information used. • Most contamination or non-targeted materials collected shall not be included when calculating the weight of the calculated materials (numerator) <p>Only the materials collected under PRO collection (see ORS 459A.896(1)) and the rules for convenience standards, apply towards calculating the weight of the collected materials (numerator), unless noted elsewhere.</p>
	Material Specific Collection Targets	<p><i>Glass packaging: 45 percent.</i></p> <p><i>Polyethylene film: 25 percent collection by 2028 then ramping up to 50 percent collection by 2040 and in each subsequent year.</i></p> <p><i>Steel and aluminum aerosol packaging, pressurized cylinders, aluminum foil and pressed foil products, block white expanded polystyrene, PE and PP lids, and HDPE package handles: all to be determined. Must be proposed by the PRO in the PRO program plan and approved by DEQ. Subsequent program plans must contain higher collection targets or a justification for why targets are not changed.</i></p>
TBD	Performance Standards	<p>Performance standards define the outcomes that PROs are required to achieve in meeting recycling obligations for materials on the PRO Recycling Acceptance List.</p> <p>These rules establish performance standards for all such materials addressing the following topics:</p>

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		<ul style="list-style-type: none"> • Description in the PRO program plan of how the PRO will monitor sites and services to ensure achievement of performance standards. • Services must be free and accessible to the public and adequately promoted. • Services must be provided in a manner that minimizes inbound and outbound contamination and maintains the quality and marketability of collected materials. • Mitigation of litter and other environmental impacts. • Reporting to DEQ of significant impacts and variances. <p>The rules also provide additional performance standards specific to collection events, and material-specific performance standards for expanded polystyrene, aerosol containers, and pressurized cylinders.</p>
TBD	Convenience Standards	<p>These rules establish minimal standards for the ease and convenience by which households and businesses can access recycling service for materials on the PRO Recycling Acceptance List.</p> <p>Because the Recycling Modernization Act requires PROs to first contract for such service with existing recycling depots where possible, the rules define “existing recycling depots” and “where possible”. Existing recycling depots include those at permitted solid waste disposal sites, used to comply with Opportunity to Recycle Act requirements, or operated by a Tribal government, local government, or local government’s service provider. To be “possible” such an existing depot must be willing and able to contract for service, at a cost to the PRO less than the PRO’s cost to provide service elsewhere in the same community, plus a price premium (TBD). Only costs that are a consequence of expanding operations to accept materials on the PRO Recycling Acceptance List are eligible for compensation. Existing depots can choose to contract with the PRO for all or only a portion of materials on the PRO Recycling Acceptance List.</p>

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Rule Number	Rule Title	Explanation
		<p>The rules require the PRO to contract with all existing recycling depots, where possible. The rules also establish other quantitative requirements for numbers of collection points for different materials; existing depots may count towards these requirements. Different requirements are established for “base” materials (materials generated in smaller volumes or less frequently) vs. “enhanced materials (where more recycling locations are warranted). The rules require at least one collection point in every county and similarly in every city above a defined population, and additional sites in counties or cities with larger populations. An additional standard requires distribution of collection points to improve access (95 percent of Oregon residents must live within 15 miles of a collection point).</p> <p>In larger communities served by transit, at least half of collection points must be readily accessed by users of transit, and the PRO must propose additional services to enhance convenience to individuals that may otherwise have difficulty accessing a fixed collection point.</p> <p>The rules provide the PRO with flexibility to propose an alternative pathway to meeting convenience standards if certain conditions are met.</p> <p>Rules also establish requirements for hours of operation at PRO recycling depots, and standards for public and DEQ notification of any changes, as well as maintaining continuity of services.</p>

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Appendix I: Consolidated Local Government Recycling Acceptance Lists

Materials	Required for On-Route Collection	Required for Depot Collection	Suitable for Commingled Collection (USCL)
Corrugated cardboard: uncoated or coated with recycle-compatible coating. Includes pizza boxes.	✓	✓	✓
All kraft paper (such as paper bags, mailers)	✓	✓	✓
Uncoated paperboard packaging (e.g., cereal, cracker, and medicine boxes)	✓	✓	✓
Polycoated cartons (e.g., milk cartons), aseptic cartons, and polycoated paper cups	✓	✓	✓
Molded pulp packaging (but not food serviceware or flower-pots)	✓	✓	✓
Tissue paper (packaging, not sanitary)	✓	✓	✓
Non-metalized gift wrap	✓	✓	✓
High-grade office paper	✓	✓	✓
Newspaper/newsprint	✓	✓	✓
Magazines, catalogs and similar glossy paper	✓	✓	✓
Telephone directories	✓	✓	✓
Other printing and writing paper (e.g., envelopes, “junk mail”, cards)	✓	✓	✓
Paperback books	✓	✓	✓
Aluminum food and beverage cans	✓	✓	✓
Steel and bi-metal cans, including empty/dry metal paint cans	✓	✓	✓
Scrap metal less than 10 pounds in weight and 18” in length – no sharp items (e.g., knives) or “tangles” (bicycle chains, wire, etc.)	✓	✓	✓
Other scrap metal, including appliances such as clothes washers, refrigerators, and stoves		✓	
Paper “cans” with metal ends (e.g., snack, nut and coffee cans)	✓	✓	✓

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Materials	Required for On-Route Collection	Required for Depot Collection	Suitable for Commingled Collection (USCL)
Plastic bottles and jugs, 6 ounces and larger: PET (#1) (clear only); natural and colored HDPE (#2) and LDPE (#4); clear and colored PP (#5). Caps OK if screwed on.	✓	✓	✓
Plastic tubs (e.g., cottage cheese), 6 ounces and larger: PET (#1), HDPE (#2), LDPE (#4) and PP (#5)	✓	✓	✓
Nursery (plant) packaging: HDPE (#2) and PP (#5)	✓	✓	✓
Plastic buckets, pails, storage containers and other packaging that fits loosely in the generator's provided on-route collection container: HDPE (#2) and PP (#5)	✓	✓	✓
Clear plastic cups: PET (#1) and PP (#5)	✓	✓	✓
Glass packaging (bottles, jars): Metro washed only	✓ (non-residential sources only)		
Motor oil		✓	

Consolidated 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)

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